FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARINGS ON PROPOSED LEGISLATION PROVIDING FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND TO REVIEW THE EFFECTS OF BUDGETARY REDUCTIONS FOR CRIMINAL JUSTICE ASSISTANCE PROGRAMS;

AND ON

H.R. 4481

AN ACT TO AMEND THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968, AND FOR OTHER PURPOSES

FEBRUARY 11 AND MARCH 18, 1982

Serial No. J-97-105

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
11-214 O WASHINGTON : 1982

S521-28

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FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT

THURSDAY, FEBRUARY 11, 1982[1]

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 5110, Dirksen Senate Office Building, Senator Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Metzenbaum, Boren, and Nickles.

Staff present: Bruce A. Cohen, Esq., chief counsel; and Marjorie Miller, professional staff member.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen. It is 10 o'clock. We will begin the meeting.

We are scheduled this morning to proceed with our continuing inquiry and oversight of federally assisted crime programs, with special emphasis on their impact on juvenile delinquency.

We are going to have an addition to the agenda with the consent of Senator Metzenbaum, the ranking minority member of this subcommittee.

* * * * * * *

We have interrupted our regularly scheduled portion, which we are going to turn to now because we have people who have been with us all morning.

I would like to call forward the Hon. Stanley Morris, Associate Deputy Attorney General for the U.S. Department of Justice; Mr. Cornelius Behan, chief of the Baltimore County Police Department; and the Honorable Joseph A. Fusco, county prosecutor of Atlantic City, N.J.

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[1] NOTE.—The testimony of the witnesses, William W. Treanor, consultant to the Subcommittee on Juvenile Justice and Louise Westmoreland, counsel to the Subcommittee on Juvenile Justice, who testified on February 11, 1982, may be found in the hearing titled "Abuse of Juveniles in Public Care and Detention Facilities" Serial No. J-97-95, combined with hearings held on May 26 and 27, 1982.

STATEMENT OF HON. STANLEY MORRIS, ASSOCIATE DEPUTY ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY ROBERT F. DIEGELMAN, ACTING DIRECTOR, OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS, U.S. DEPARTMENT OF JUSTICE

Senator Specter. My apologies to you, gentlemen, for waiting, but it is not an unusual problem to wait in a proceeding. I think, as you experienced attorneys know, we covered a fair amount of ground in a fairly brief period of time considering the varied interests which were at issue, and some four Senators to ask questions.

Mr. Morris. I understand.

Senator Specter. Mr. Morris, without any preliminaries let me turn to you and ask for your comments with the focus on the recommendations, I think 52 and 53, which have been made by the Attorney General's Task Force on Violent Crime in terms of where Federal action ought to be going on the law enforcement issue at the present time.

Mr. Morris. Mr. Chairman, on my right is Mr. Robert Diegelman, who is the Acting Director of the Office of Justice Assistance, Research, and Statistics.

We appreciate this opportunity to report to the subcommittee concerning actions being taken to provide for the orderly termination of the Law Enforcement Assistance Administration and to comment on Senate Bills 1455, 1653, and 1997, which you asked for our views on in your letter of January 28.

As I indicated in my testimony before this subcommittee last October 28, LEAA has been gearing down for almost 2 years. Only administrative funds have been made available to provide the necessary staff to bring to an end in an orderly and responsible way a 12-year program involving $8 billion in Federal expenditures. This process began in the spring of 1980 when the previous administration decided to end funding for the criminal justice assistance programs authorized by the Justice System Improvement Act, and administered by LEAA. That decision was subsequently reaffirmed by the Congress and this administration. At the same time, we are assuring effective management of those programs that are continuing, including programs of research, statistics, juvenile justice, and payments under the Public Safety Officers' Benefits Act.

Today the JSIA agencies—which include LEAA as well as the Office of Justice Assistance, Research, and Statistics, the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, and the Bureau of Justice Statistics—are undergoing the major adjustments necessary to reflect policy and budgetary decisions and to make optimum use of the available resources. A very considerable amount of effort and planning has been devoted to the transition now underway.

LEAA's current authorizing legislation was signed into law by former President Carter in December of 1979. Three months later he proposed the phaseout of LEAA and requested no fiscal year 1981 appropriation for the State and local criminal justice program. Congress endorsed that phaseout by appropriating no fiscal year 1981 funds. Subsequently the budget request for the Department of Justice submitted by President Reagan in March of last year continued the

LEAA phaseout as part of the President's commitment to major reductions in Federal spending, particularly in those areas where the primary responsibility and authority rests with State and local governments.

The point has now been reached——

Senator SPECTER. May I direct your attention more specifically?

Mr. MORRIS. Sure.

Senator SPECTER. I do appreciate your commenting on the statutes, which I had asked you about, but the kernel of the issue that we are trying to focus on is recommendation 53 of the Attorney General's Task Force. Recommendation 53 urges the Attorney General to insure that adequate Federal resources are made available for research, development, demonstration, and independent evaluation of methods to prevent or reduce serious crime, and to insure adequate resources for implementing programs of proven effectiveness at the State and local levels.

In a very tough era of budget constraints, does the Attorney General endorse that proposition?

Mr. MORRIS. Well, I did not come——

Senator SPECTER. And to give you the full question, really: If so, how? How are we going to get there with what funding is available? And where should we be going?

Mr. MORRIS. Well, there are several components, if I can break your question apart. In terms of the appropriation for 1983, the President requested $55.7 million to deal with the research, statistics, and other components in the Office of Justice Assistance, Research, and Statistics. That is what we found as we went through a very difficult budget with the OMB and with the White House that we can in fact afford this year.

Senator SPECTER. Is that enough? That may be an unfair question to ask of an administration spokesman, but perhaps a more accurate way to pose the question is: How can you defend it? What has been done on juvenile justice this year?

Mr. MORRIS. We have proposed no funding for the juvenile justice program.

Senator SPECTER. Is that sufficient?

Mr. MORRIS. Yes.

Senator SPECTER. Why?

Mr. MORRIS. Why? Well, as I have testified before here, and I may sound a bit like a broken record, the Federal Government has spent over a billion dollars on juvenile justice. You are quite rightfully concerned that there are 35,000 juveniles in instittuions. It is our policy that we would rather not have them be there, those status offenders.

I would point out to this committee that before the program began there were 235,000 children in those institutions. I would also point out that there are some seven States that have not cared to join into this program. As is mentioned earlier today, one of those States is Oklahoma.

Senator SPECTER. Should we make that mandatory?

Mr. MORRIS. I believe this administration would oppose making it mandatory. I think that there is a leadership role on the part of the Federal Government; but that this is in fact primarily a responsibility of State and local governments. And for us to make that mandatory would, I think, not be something that this administration would support.

Senator Specter. Well, if you have——

Mr. Morris. We have put seed money out there. We have spent over $1 billion, and we have largely achieved the goals that we originally set out to achieve. We have not gotten 10 percent, but we have gone a long way.

Senator Specter. Well, 35,000 left out of 235,000 shows a significant improvement, but it also shows a very large number still in that kind of detention.

Why would you say that it should not be mandatory if six States have elected not to take the Federal funding, if those six States are not maintaining minimum standards for appropriate care of juveniles?

Mr. Morris. In terms of a seed funding program, which is what the Juvenile Justice and Delinquency Prevention Act was all about, encouraging States to carry out goals that we at the national level had determined, that seems to me to be a sensible way to proceed. For us to make the States take the money, basically nationalizing the problem and forcing them to act in those ways, I think would be a serious violation of the role of the States versus the Federal Government.

Now having said that, I think it is important to note that some of the allegations that we heard earlier this morning could represent violations of Federal laws unrelated to this grant program.

Senator Specter. Such as what?

Mr. Morris. The Institutionalized Persons Act is an example which is administered largely by the Civil Rights Division, the Mann Act, and others. There are ways to deal with those kinds of problems. I have serious questions whether further resources is the answer.

Senator Specter. Mr. Morris, what about the 1980 amendments to the Juvenile Justice Act that added an emphasis on serious and violent juvenile offenders? Have those goals been met, in your opinion?

Mr. Morris. I am not sure specifically what those are.

Bob, would you help me?

Mr. Diegelman. Well, we have started—as to whether they have been met as of this point, the answer is "no." We are only 1 year into the implementation of those statutory requirements.

We are undertaking the study, the jail study that was required under the Juvenile Justice Act. We have given guidance to the States to refocus the percentage of formula funds that are out there into the violent-offender area, and I think we are talking on the order to 25 to 30 percent formula money actually being used for that purpose.

We also have a violent-offender R&D program which is presently being proposed and implemented. Whether we will be able to complete it all faced with a fiscal year 1983 budget of zero is another question. We are implementing the requirements; yes, sir.

Senator Specter. Mr. Morris, I am going to want to make your statement a part of the record, as we customarily do. In view of the lateness of the hour—and I do want to hear briefly from the other two witnesses who are here—we may submit some more questions to you in writing, or we may ask you to even perhaps proceed in another hearing.

I do appreciate your coming, and I do express my regret at not having more time. I want to thank you for the attention that you give to these problems. I know it is not easy, and I know that if you were the President there might be different policies—there might not, but there might be different policies. And if President Reagan had more funds available, I think he would like to implement different policies. But it seems to me that we really have to keep the pressure on these issues; that good work has been done, but there is still a lot more which remains to be done.

This subcommittee is charged with the responsibility for being the advocate of a sort of the juvenile justice program, and it is an advocacy that I am delighted to undertake. And if at sometimes it puts us on somewhat cross purposes, I know you understand that that is the role that we find ourselves in, and but for some different circumstances, perhaps residency on your part, our positions might be reversed and somewhat similar versions given.

Thank you very much for coming.

Mr. MORRIS. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Morris follows:]

PREPARED STATEMENT OF STANLEY MORRIS

Mr. Chairman, the Department appreciates this opportunity to report to the Subcommittee concerning actions being taken to provide for the orderly termination of the Law Enforcement Assistance Administration and to comment on Senate Bills 1455, 1653, and 1997.

As I indicated in my testimony before this Subcommittee last October 28th, LEAA had been gearing down for almost two years. Only administrative funds have been made available to provide the necessary staff to bring to an end in an orderly and responsible way a 12-year program involving more than $8 billion in Federal expenditures. This process began in the Spring of 1980 when the previous Administration decided to end funding for the criminal justice assistance programs authorized by the Justice System Improvement Act (JSIA) and administered by LEAA. That decision was subsequently reaffirmed by the Congress and the Reagan Administration. At the same time, we are assuring effective management of those programs that are continuing including programs of research, statistics, juvenile justice, and payments under the Public Safety Officers' Benefits Act.

Today, the JSIA agencies (which include LEAA, the Office of Justice Assistance, Research, and Statistics, the Office of Juvenile Justice and Delinquency Prevention the National Institute of Justice, and the Bureau of Justice Statistics) are undergoing the major adjustments necessary to reflect recent policy and budgetary decisions and to make optimum use of the available resources. A very considerable amount of effort and planning has been devoted to the transition now underway. LEAA's current authorizing legislation, was signed into law by former President Carter in December, 1979. Three months later, he proposed the phaseout of LEAA and requested no Fiscal Year 1981 appropriation for the state and local criminal justice program. Congress endorsed the phaseout by appropriating no FY 1981 funds. Subsequently, the budget request for the Department of Justice submitted by President Reagan in March of last year continued the LEAA phaseout as part of the President's commitment to major reductions in Federal spending, particularly in those areas where the primary responsibility and authority rests with state and local governments.

The point has now been reached where administrative efficiency demands a realignment and consolidation of functions relating to the phaseout of LEAA grants. Because the agency has received no program funds for the past two fiscal years, its role has been essentially to monitor and close the grants made in previous years as the projects reach the end of their funding period. Under the JSIA structure, however, the grant closeout responsiblity is shared by LEAA with OJARS, which exercises the financial controls and accounting through its Office of Comptroller. In addition, the level of administrative funds and personnel authorized for OJARS and LEAA required a significant reduction staff during this fiscal year. Thus, the steadily diminishing role for LEAA as projects reach the end of their Federal funding and the necessity to operate within the mandated manpower ceilings led to the decision to consolidate the LEAA phaseout activities within OJARS and to terminate LEAA as a discrete entity on April 15th. I want to emphasize that the continuing program functions authorized by separate legislation - such as the Public Safety Officers' Benefits program - or mandated by Congress through the appropriation process - such as the Treatment Alternatives to Street Crime (TASC) program - will also be shifted to OJARS and will continue to operate without interruption. All of our planning and the actions taken thus far have been based on certain fundamental principles. First, that the LEAA program must be closed-out in a way that assures proper accountability for public funds. Second, that continuing JSIA program activities be given sufficient support to function effectively.

Since May of 1980, LEAA has been phasing down in a manner consistent with those principles. The accomplishements to date are a credit to the professionalism and ability of the LEAA and OJARS personnel who, during this period of uncertainty, have maintained the fiscal accountability and integrity of their operations. Specifically, they have: closed out almost 1600 grants and contracts; reduced the backlog of civil rights complaints by 80 percent; eliminated completely the backlog of unresolved audits; reduced administrative costs; and provided the resources necessary to maintain essential State administrative services. At the same time, LEAA and OJARS staffs were reduced by about 40 percent through normal attrition, job outplacement actions and early retirement.

Despite the progress of the past year, much remains to be done to close out the LEAA program. As of the first quarter of Fiscal Year 1982, there were over 1000 LEAA block and discretionary grants that must be monitored and/or closed out. These grants involve over $240 million in unreported expenditures, including $180 million in block funds and $60 million in categorical grants.

Although no new awards will be made by LEAA, grant monitoring and close-out activity will continue through the end of FY 1982. Monitoring requirements will decline in FY 1983 and should be concluded by the end of March 1983. All final, close-out actions for LEAA grants will be formulated by the end of FY 1983.

While planning the necessary allocation of resources to manage the termination of LEAA grants, we have also been cognizant of the number of grants to be awarded, monitored and closed-out in the continuing JSIA programs. These include, during FY 1982, 252 new awards to be made, 813 grants to be monitored, and 822 grants to be closed-out. LEAA and juvenile justice block and formula grants alone account for about $340 million "in the pipeline" at state and local levels of government that must be administered.

A number of steps have already been taken, and additional measures are under consideration, to provide efficient management of the continuing program activities and to assure proper stewardship of LEAA funds, while adjusting to the reduced staff levels provided in the current JSIA budget.

As you know, Mr. Chairman, the States play a significant role in the administration of both block and discretionary grants from LEAA. For that reason, supplemental awards have been made to support the state criminal justice councils through March 31, 1983. A basic condition of these supplemental awards has been that the States continue to fulfill their administrative duties, including their responsibilities to audit LEAA grants. To date, no State has abandoned its responsibilities although there have been staff cutbacks and in a handful of States responsibility has been transferred to another State agency.

Despite the significant reductions in LEAA staff through attrition and early retirement, as I noted earlier, it has been necessary to initiate a reduction-in-force in the JSIA agencies. The RIF, focussed on LEAA and selected offices within OJARS, will result in the separation of 48 employees by the end of March. It has been designed to eliminate only those functions which will terminate with the phaseout of LEAA and which reflect the reduction of some staff support activities by OJARS. We do not expect this process to affect adversely the continuing activities of the other JSIA units, although the exercise of "bumping" and "retreat" rights by LEAA and OJARS personnel will inevitably cause some dislocation in the other JSIA units.

Concurrent with the reduction-in-force, remaining LEAA functions and associated positions will be reassigned to OJARS. These continuing functions include: management of TASC program and regional intelligence unit grants; administration of the Public Safety Officers' Benefits program; and monitoring and close-out of those block and categorical grants which have not yet reached the end of their award period. By April 15, we expect to complete the transfer to OJARS of the responsibilities and authorities now exercised by LEAA.

A lingering concern is the disposition of an estimated $500 million in property purchased by states and localities with LEAA funds. Present OMB regulations require the return of this property to the Federal Government. Last August, the Department submitted a legislative proposal which would permit recipients to retain title to this property if it is used for criminal justice purposes. Unfortunately, no action has been taken on this proposal to date. We firmly believe that the suggested amendment is a necessary and appropriate step toward the disposition of property already being utilized by state and local law enforcement; and we urge the Congress to take prompt action on the proposed legislation.

Finally, with respect to the LEAA termination, it should be noted that the Department is required by the Congressional Budget and Impoundment Act to submit to Congress in May of this year any proposal for extention or modification of the JSIA. Further restructuring of the JSIA units and any additional steps deemed necessary to facilitate the final close-out of LEAA grants may be included in such a proposal. I would add, however, that the development of a legislative proposal is in only a preliminary stage and no decisions have yet been made.

Turning now, Mr. Chairman, to the Senate bills upon which you asked for Department comments, it should be noted that these bills are still being reviewed and that the Administration's formal position has not yet been established. However, I offer the following observations:

S. 1455. The National Security and Violent Crime Control Act of 1981.

This proposal attempts to meld into a single bill several crime-related initiatives which had previously been introduced as separate bills. Included are provisions which would: (1) establish an Office of the Director of National and International Drug Operations and Policy; (2) provide for pretrial detention in certain circumstances; (3) require the Attorney General to prepare an annual report on organized crime; (4) provide for the processing in Federal courts of certain juvenile offenders as adults; (5) establish a new Part N in the Justice System Improvement Act authorizing $30 million per year for "criminal justice information and training"; (6) require the National Institute of Justice to emphasize "applied" research; (7) establish a group life insurance program for state and local public safety officers; and (8) establish a new Federal anti-arson program.

Although the Department has not completed a full review of all of the provisions of this bill, and I am therefore unable to discuss all of the aspects of the proposal in detail, it is apparent that some provisions of S. 1445 parallel positions advocated by the Administration. However, the bill also includes proposals that have been consistently opposed by the Department, such as creation of a group life insurance program for state and local public safety officers. Consequently, the Administration does not support this bill.

S. 1653. The Criminal Justice Assistance Amendments of 1981.

This bill would amend the Justice System Improvement Act to create a National Justice Commission, establish a Bureau of Justice Assistance in place of LEAA and OJARS, and authorize a grant program similar to that previously administered by LEAA.

S. 1997. The Criminal Justice Assistance Act of 1981.

This bill would amend the JSIA to permit OJARS to award funds to State and units of local government for certain activities previously funded by LEAA. It would also authorize the award of funds for "emergency enforcement assistance."

The Department opposes enactment of S. 1653 and S. 1997. First, it is the Administration's position that criminal justice programs are generally the responsibility of state and local governments, not the Federal government. Second, the policy of fiscal austerity which affects virtually all Federal grant programs also compels our opposition.

Mr. Chairman, I will be pleased to respond to any questions you or members of the Subcommittee may have.

Senator **Specter**. I would like to call forward at this time Chief Behan and Prosecutor Fusco.

Gentlemen let me thank you first of all for coming and let me express the subcommittee's apologies for not having more time to deal with your testimony. I am at least glad that we did not have witnesses from Hawaii here today. So to the extent that you have been inconvenienced it is not as bad as if you had come from a much longer distance.

I would like to make the testimony rather brief, if I may call on you to do that. We have received your statement, Chief Behan, submitted on behalf of you and the Police Executive Research Forum, and we shall make that a part of the record. But I would like to call on each of you briefly to summarize your views as to what you think the Federal Government ought to be doing in the field of crime control without any necessarily limited restraints of any specific acts, or Attorney General's recommendations 52 or 53, what should be done.

Chief, you come from a large suburban county with lots of crime and lots of problems. What do you think the Federal Government ought to be doing?

STATEMENT OF CORNELIUS BEHAN, CHIEF OF BALTIMORE COUNTY POLICE DEPARTMENT, BALTIMORE, MD. ON BEHALF OF THE POLICE EXECUTIVE RESEARCH FORUM

Mr. **Behan**. Well, thank you, Senator, for noting that we waited awhile and that now we are ready to testify. I appreciate that concern.

I do represent PERF, the Police Executive Research Forum. PERF is comprised of the chief executive officers of the largest cities and counties in the country, everyone with populations of 100,000 or more who deals with the most serious crime problems in the United States.

Your counsel asked me to talk on two planes. One was what the impact of the loss of Federal funding woud be; and what possible new programs I could identify.

IMPACT OF LOSS OF FEDERAL FUNDING

Let me skip right to the loss of Federal funding, with this remark about the impact. There was waste in the Federal funding. We have recognized there were mistakes in LEAA. We recognized them when the Omnibus Crime Control and Safe Streets Act went into effect in 1968. What we foresaw would happen, did happen: Too much money was made available to be spent in too short a time. But a lot of good has come out of those programs, and I can talk at any time and any place at great length to the good that LEAA has brought to our business.

In terms of the future, I think we have to acknowledge a scarcity of funds.

Senator **Specter**. What would you itemize as the best achievements of LEAA, Chief?

Mr. **Behan**. The best achievements? I would talk about:

The upgrading of the police departments in everyway—management, in training, in research.

Bringing together all the criminal justice people in forums of coordinating councils and Governors commissions. We haven't spoke before, but we do now, and will continue to do so.

Coming into the computer age. We were not there; we are there now.

Educating many of our officers throughout this country. Thousands have gone to college. Colleges have created criminal justice departments for preservice education, specialized training, and research. These are the kinds of things that we in the law enforcement profession need.

Many model programs have come out of this Federal funding—Neighborhood Watch programs, Managing Criminal Investigations [MCI], Career Criminal programs, Integrated Criminal Apprehension programs [ICAP], Institutional Alternative programs [IAP]—on, and on, and on.

DEMONSTRATION PROGRAM APPROACH

In terms of the future, I think we have to acknowledge a scarcity of funds. Without moneys, these past achievements will not be repeated. Because of the scarcity of funds we see the Federal Government moving away from the subsidy role and hopefully into a leadership role. If some dollars are available the Federal Government should support what we call "demonstration projects" to take adavntage of the fruits of the research, analysis, and experiences in the field.

We do have plenty of research—RAND, INSLAW, the Institute of Justice and the local level I have the Maryland Governor's Commission on Law Enforcement and the Administration of Justice. Much of what these research groups have done is untested. The results have not been tried. We are suggesting that we need demonstration projects.

The reason we think we need help in this regard is because most of the local police departments use all their dollars to meet their day-to-day problems of crime and service delivery. They are not willing to take risks on untried programs. They are going to have to be encouraged to do that, because they need every dollar just to survive. We are suggesting that Congress could provide the leadership in turning research into demonstration projects.

It is most important to note that many of the programs in the past that have been funded by LEAA have been institutionalized. We have done that in my department. So we are not talking about things that cannot happen. For example, we have the Managing Criminal Investigation program (MCI) which we have made a continuing, functioning part of my department.

Another example: We took burglaries, with the aid of a Federal grant, from 4.16—in areas we concentrated on—down to .4 per month. We almost eliminated burglaries in certain areas. That is being institutionalized.

Senator SPECTER. How did you do that?

Mr. BEHAN. It was a combination of: Saturation of the area by police patrol officers; and the citizens in the community working together to take care of themselves. We provide the leadership and the knowhow, they have meetings, and they watch out for each other and work with us to the degree that burglars just do not find it worthwhile going in there. And when they do commit burglary they get arrested. We have arrested burglars in this program with extensive backgrounds as repeat offenders. This is a fine program. We have the Neighborhood Watch program in 10 areas in Baltimore County. We have 50 more areas we would like to put Neighborhood Watch into. Even though the funding has gone, we are continuing Neighborhood Watch as part of our regular operations and expand it to whatever degree we can. But without assistance we certainly cannot extend the program to all 50 areas.

Another example of institutionalizing a demonstration program is that 2 weeks ago the Governor of Maryland signed an agreement with Don Hutchison, my county executive, and other local jurisdictions implementing PROMIS—Prosecutor Management Information System—to extend PROMIS into the State system and to institutionalize it is an ongoing program.

I say that just to note that we are not talking about a game of free money for programs not later assumed by local jurisdictions. We are talking about demonstration projects that have impact and continue to have impact in the jurisdiction.

NEW DEMONSTRATION PROJECTS

There are things out there marking time now that ought to be pursued, and I would like to talk a moment about an important program we developed with the Maryland Governor's Commission. I have passed out a copy of the report's executive summary to you and your committee.

For 18 months we have looked at the repeat-offender problem. We have found that these repeat offenders are only a small number who commit a disproportionate number of crimes. Further, they are between 16 and 24 years of age at the time they victimize and hurt us the most. When the repeat offender is out on the street he commits 30 to 50 crimes per year.

In my county, which I think is typical, 44 percent of the persons that we arrest have previous records, and 20 percent of the persons we arrest are on probation or parole. I think that focuses on the essence of the problem. I would like to give you two examples of this kind of recidivision.

We have a Mrs. Buckman who came to our locality. She was 82 years of age. She arrived from Florida one morning to celebrate her birthday. By that afternoon, she was murdered. A burgler had entered her daughter's home and she was there. That burgler was on parole. He had been arrested 10 previous times, and he was convicted 5 of those times for such crimes as armed robbery, burglary, and grand larceny. Under any repeat-offender program, he would not have been out on the street.

The other case I would like to cite is a juvenile that we very recently arrested in northern Maryland. He is 17 years of age and we finally put him in jail. It took a long time. Only 17 you say? How could it be a long time? We arrested him 99 times before we could finally put him away. He had committed robberies, burglaries, grand larcenies, and ordinary larcenies.

We are suggesting in our repeat offender program that we target on those aged 16 to 24 who are liable to victimize us the most and do something about them.

Senator SPECTER. How do you identify them?

Mr. BEHAN. We identify them by their records, their previous records and our knowledge. RAND is now at the threshold of developing a repeat offender profile with more research and a demonstration we may be able to identify a repeat offender earlier.

Senator SPECTER. Are you familiar with legislation which I have introduced, S. 1688, which would provide Federal action on career criminals where a person has been, on two or more occasions, convicted of a burglary or a robbery; that, with coordination with local officials, and meeting certain standards, and the commission of a firearm, that it could be triable as a Federal offense and receive the sentence of—it had been life imprisonment, now it is 15 years?

Mr. BEHAN. Yes. I am.

Senator SPECTER. Do you think that is an appropriate approach, along with the others?

Mr. BEHAN. I cannot speak for PERF, but I can speak for myself. I can take it back to PERF and ask them what they think.

I think it has a lot of merit. It strikes to the heart of the repeat offender problem. It also does some things that I find interesting. It brings the Federal Government into our problems. I would like them to be there. One reason for this is that we do not have accurate criminal history records when we talk about repeat offenders. I think if the Federal people get involved in that process they would require better recordkeeping which would enable us to keep track of these people.

It is difficult to coordinate the Federal and local levels, very difficult. I think any legislation that requires us to work together or increases that kind of coordination has merit. Coordination certainly would have an impact on the repeat offender. That is my view. Coordination can help Federal law enforcement agencies. The FBI has spent 10 years developing psychological criminal profiles, primarily murderers. They can pinpoint the personality of a murderer base on crime reports. However more research is needed, together with coordinating demonstration projects with local police departments, to prove the practicality of the program.

Senator SPECTER. Chief, thank you very much. We could go on at some length. I really appreciate your coming, and we are going to be calling on you from time to time, both on an informal basis and formally. It is nice to have you so close to Washington. I really appreciate you being here.

[The prepared statement of Mr. Behan and the text of Repeat Offender Program Experiment (ROPE) Guidelines and Programmatic Alternatives follow:]

PREPARED STATEMENT OF CORNELIUS J. BEHAN

Mr. Chairman, members of the Subcommittee, thank you for giving the members of the Police Executive Research Forum an opportunity to express their views regarding the need for the federal government to assist state and local law enforcement agencies in their fight against crime. The Forum is an organization comprised of chiefs of police from the nation's largest city and county law enforcement agencies who, daily, must deal with the country's most serious crime problems. Individually and collectively, through our organization, we continually search for better ways to combat the crime problems plaguing our citizens. The role of the federal government in this effort is indispensable to our success.

On behalf of the members of the Forum, I would like to commend you for holding these hearings. Although we have heard much talk about combatting crime, little action has been forthcoming; in fact, federal assistance has been reduced. I needn't tell you that crime is a serious problem for most American citizens. You hear that from voters; we hear it from our constituents. Statistics show, however, that these claims are not unfounded. During the 1970's alone, the rate of violent crime surged by nearly 50 percent. At the end of the decade, it was reliably estimated that more than six million violent crimes occurred annually, with one American falling victim to an act of criminal violence every 24 seconds. One of every 17 families was affected by violent crime. If we include burglaries, this increases the rate to one of every 14 families. National polls over the past decade have found that Americans feel that crime ranges from first to third on their list of concerns; it is a problem that envelops our citizens in fear and makes a mockery of our government's responsibility to "insure domestic tranquility."

Although it is true that crime is basically a state and local responsibility, the way in which it affects the fabric of our society makes it a national problem. This fact notwithstanding, for all the discussion and expression of concern over the crime problem, little more than symbolic measures have been proposed. We feel that more rhetoric, in the absence of substantive action, will simply heighten the public's fear of crime and frustrate those who must actually deal with the problem. For this reason, the hearings you have begun are important because they facilitate the exchange of meaningful ideas which can then be fashioned into a suitable and effective mechanism for carrying out the federal role.

We have gone nearly two years now without the Law Enforcement Assistance Administration, an agency which represented the federal government's last effort to provide assistance. Although there were, admittedly, many problems with this agency, its discontinuation has left a gap which is beginning to result in negative consequences. The criminal justice system, already burdened by myths, hindered by a lack of knowledge, and often constrained by a blind adherence to tradition, is now "hunkering down." Criminal justice agencies, lacking the resources to develop new ways to improve their effectiveness and efficiency (a process which federal money fostered), are instead, developing a siege mentality of making do with what we have and fighting to keep that. New efforts mean new risks and no one can afford failures at this time. In light of the limited success criminal justice agencies have had in dealing with crime, this can hardly be viewed as a good omen.

From a law enforcement perspective, we see essentially two roles of the federal government can play: one of leadership, the other of support. We are all familiar with the support role; this was the basis on which funds were allocated in the past. Although it is our belief that the LEAA has funded many successful programs, we also recognize that the high level of funding required to continue such a program is not possible given the current fiscal priorities of Congress and this nation. Likewise, we face similar constraints with respect to our own local budgets and, therefore, cannot expect the federal government to respond as it has previously. Furthermore, given the limited amount of funds available, it is unrealistic to expect that a national program can underwrite or subsidize local criminal justice programs adequately.

Thus, the most effective role which the federal government *can play* is one of leadership. By leadership, we mean assisting criminal justice agencies in their search for new and innovative ways to perform their tasks more effectively and efficiently. The current financial situation of most municipal jurisdictions is such that they cannot afford to take risks, to search for new and better ways to effectively deal with crime. Many barely have the money to meet basic operating costs. Similar to the role the federal government plays in sponsoring research regarding cancer and other diseases, federal leadership is needed to improve the methods we use in the battle against the disease of crime. While wishing they could find cures and better treatment for many of the diseases which afflict their patients, hospital administrators must focus attention on operating their institutions to maintain the health of their patients according to tried procedures. They rely on federal sponsorship of programs to test and develop new techniques. For example, the National Cancer Institute, in fiscal year 1981, provided $745 million in federal grants and contracts for research into just one disease. If not for federal sponsorship of searches for new and better ways to cure and treat diseases, hospitals would still be treating patients as they did decades ago. So, too, criminal justice administrators must focus their attention on operating their agencies within parameters defined by the resources available. And, although a support role of the federal government may help them operate more smoothly by adding a few dollars to their budgets, throwing a limited amount of money at the problem in this fashion will not achieve our mutual goal. *What is really needed is assistance in developing new methods for conducting criminal justice operations in a more effective manner*. Without such support from the federal government we will be doomed to a happenstance process of improvement, likely to be overrun and suffocated by the pressures of increasing crime.

To expect local criminal justice agencies--already financially hard-pressed to meet daily operating costs--to undertake high risk ventures and develop new programs, is simply unrealistic. In all efforts aimed at finding new solutions to complex problems there is as much chance of failure as success. This is the price of progress. No local criminal justice executive, however, can take such chances under current conditions. This is where the federal government can play a crucial role: it can support and foster those who seek new and better solutions. It was, after all, federal moneys which supported the efforts which led to many of the widely-recognized successful programs currently in operation in local criminal justice agencies. This includes the career criminal programs, "sting" operations, the integrated criminal apprehension program, and the PROMIS system. Without this kind of encouragement, we surely will not progress beyond the point we are now; no one would suggest that, at this time, we have found the answers to an effective criminal justice system. Thus, the federal government can have a great impact on improving the local criminal justice system's ability to combat crime by providing it with what it does not and, probably, can never have--the means for systematically nurturing progress.

To fulfill this leadership role, we suggest that the Congress develop a national demonstration program. Some might suggest that the search for new ideas is the role already being played by the National Institute of Justice. There is, however, an important distinction between what NIJ does and what is envisioned here. NIJ's mandate is to conduct research, experiments, and empirical studies which call into question current assumptions and result in new knowledge. From these facts, conclusions can be drawn which can alter current policies or change existing operations. This is an important mandate which rightfully belongs to this independent agency. The program we are discussing today, however, should have as its goal the development of demonstration projects: its purpose should be to test new strategies and techniques to determine if they are operationally feasible. Moreover, such a program should monitor their effectiveness and efficiency. If one were to make an analogy to private industry, NIJ could be thought of as the research arm which, along with state and local criminal justice agencies, generates new concepts; and this proposed program as the marketing arm which test-markets them in the marketplace.

The procedure by which this program would operate is as follows. A local criminal justice agency, based on past research and experience, would suggest an innovative method for handling a specific problem confronting it. Funding would be provided to several jurisdictions to test the concept, and a rigorous evaluation of the new program would be conducted. If the program proved successful, a manual would be developed that detailed the steps for implementing the program and provided for its evaluation. Such manuals would then be disseminated in an extensive promotional campaign to advise other local criminal justice agencies throughout the country of the benefits of the new program. These agencies would then make an assessment of whether to implement it out of their current operating funds.

To provide you with a more concrete example of how this national demonstration program would work, let me give you an example from the Baltimore County Police Department. Based on a federally-funded study by Temple University and data collected by the Repeat Offender Task Force of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice, it was discovered that, generally, a small number of persons are responsible for committing a disproportionate number of crimes. The career criminal program sponsored by LEAA, was designed to assist prosecutors in focusing on these special offenders. Common sense, however, tells us that not only the prosecutors, but the entire criminal justice system--from the police to corrections--should be devoting more of its resources in this area. The Repeat Offender Task Force came to just that conclusion. As a result, five jurisdictions are being asked to combine efforts to expand the focus of their career criminal programs to encompass the entire criminal justice system. Unfortunately, it will be difficult for these jurisdictions to acquire the necessary resources to implement this untried program. A national demonstration program, however, would not only permit the above mentioned jurisdictions to test this procedure, but would enable other jurisdictions to benefit from the successes of the program, as well as to learn from our experiences and any mistakes that might be made.

The national demonstration program we envision is based on the assumption that local jurisdictions will implement programs that are both needed and proven successful. Although it would be nice to have a carrot, in the form of financial incentives, to dangle in front of local jurisdictions to encourage adoption of programs, limited federal resources require that we rely on promotion of the program's self-worth as inducement. Again, the incentive for local police departments to adopt a national demonstration program would be the program's proven record of success, and its ability to improve a department's effectiveness and efficiency with respect to delivering specific services. That localities are more than willing to expend funds for such proven, innovative programs can be seen in the number of jurisdictions which funded the LEAA-tested career criminal and ICAP programs.

Eighty-five to ninety percent of the jurisdictions that started a career criminal program under LEAA have continued their program following the cessation of federal funds. More importantly, however, a like number of local jurisdictions have instituted programs involving career criminal techniques and concepts with their own funds, based on the success of the program in the initial jurisdictions. Similarly, a large percentage of police departments have maintained ICAP programs after federal funding ceased, while a number of other departments implemented elements of the program out of their local budgets.

The key to the success of a national demonstration program will be vigorous leadership by those in charge of the program, with strong reliance on input from criminal justice practitioners as to their needs and ideas. Rigorous criteria must be applied when assessing which projects will be funded. The purpose of the program should not be to provide funding to each of the 50 states on a pro rata basis, but, rather, to support the development of those programs which show the greatest promise. The goal is to test innovative concepts and programs that appear workable and transferrable. A program designed as described should provide localities throughout the country with the opportunity to improve their operations.

Criteria to be met by any funded projects might include the following:

- that they deal with an issue of significant importance to the improvement of the criminal justice system.
- that they be based on a reasonable working hypothesis founded on articulated and supportable evidence of previous research or experience.
- that they have a reasonable opportunity of success.
- that they be unable to be funded or implemented solely from local resources.
- that they be cost efficient.
- that they be transferrable to other jurisdictions.

As important as deciding which programs to fund is the promoting of programs proven successful. A comprehensive marketing strategy should be developed to insure that all jurisdictions are made aware of the effectiveness of an innovative program and the efficiencies they will realize if such a program is implemented.

In summary, then, we believe the most useful role the federal government can play in assisting local criminal justice systems with the limited funds currently available is to nurture those efforts that are geared toward developing better ways of combatting crime. Only if we progress beyond our current capabilities, do we have any hope of allaying the public's growing disillusionment with the criminal justice system's ability to cope with crime.

A federal support program that underwrites proven programs in all local jurisdictions is too expensive to be politically feasible given the current economic climate. A federal program with modest funds earmarked for the support of proven programs in a limited number of jurisdictions is much like funding NASA to send satellites into space because it has proven it can do it. NASA, once it succeeded with satellites, moved on to the challenges of putting men into space; soon after they were developing ways of putting men on the moon. Most recently, NASA developed the space shuttle. Those who would use satellites for their own purposes, such as for international communication, must now assume the costs themselves if they wish to enjoy the benefits. The same is no less true of the criminal justice system. The federal government should support those involved in risk-taking--those seeking to advance the state of the art. Once a program is proven, let those who will use it pay for it. If the programs are truly successful, bearing the total cost of implementing them will be outweighed by the benefits accruing to those who implement them.

We believe there is a legitimate and useful role to be played by the federal government in assisting state and local criminal justice agencies. This role is to provide leadership by fostering the development of progressive and more effective criminal justice operations. It can be accomplished by a national demonstration program which directly assists those operationally responsible for the criminal justice system.

REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE)
GUIDELINES AND PROGRAMMATIC ALTERNATIVES

Executive Summary

Prepared For

MARYLAND GOVERNOR HARRY R. HUGHES'

COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

By

The Repeat Offender Task Force

Chief of Police Cornelius J. Behan, Chairman

BACKGROUND

The Maryland Governor's Commission on Law Enforcement and the Administration of Justice created the Repeat Offender Task Force in September 1980. The Task Force's mission statement was adopted as follows:

> The Repeat Offender Task Force's purpose is to study the administration of justice activities concerning juveniles and adults who are identified as Repeat Offenders, to prepare recommendations to improve the system's response, and to reduce the adverse impact upon Maryland citizens.

Chief Cornelius J. Behan was appointed Chairman of the Repeat Offender Task Force, whose other members represent a cross-section of the criminal justice system, jurisdictions, and geographic areas. The Task Force members include the Honorable Warren B. Duckett, Jr., State's Attorney, Anne Arundel County; Dr. Arnett Gaston, Director, Prince George's County Detention Center; Mr. Eddie Harrison, Justice Resources, Inc., Baltimore City; the Honorable N. Paul Joyner, Board of County Commissioners, Snow Hill; Mr. William J. Kunkel, Chairman, Maryland Parole Commission; Mr. Emory Plitt, Office of the Attorney General; the Honorable George B. Rasin, Jr., Chief Judge, Second Judicial Circuit; Mrs. Jackie Roberson, citizen of Howard Co.; and Mr. Henry P. Turner, citizen of Talbot Co.

PROBLEM STATEMENT

The Task Force directed staff to:

- Review major research efforts (e.g., Rand, INSLAW, Juvenile Assessment Center Reports);
- Identify programs across the nation aimed at repeat offenders (RO's);
- Collect data on a variety of offender populations in Maryland; and

- Examine press responses to criminal/juvenile justice issues, especially those concerning incidents of repetitive criminality/delinquency.

Research showed that:

- A small number of criminals/delinquents accounts for a substantial percentage of crimes committed;
- RO's are extremely active during their juvenile and young adult lives, with the frequency of crimes committed diminishing after young adulthood;
- Maryland's RO problem appears to be similar to that of other states across the nation;
- Nationally, several programs have been successfully directed at the RO problem, most notably the Prosecutor's Career Criminal Program;
- RO programs are usually focused on a narrow segment of the RO problem and are usually isolated within one agency, which tends to limit the impact on the RO problem as a whole.

Repeat Offender Program Experiment (ROPE) Design

ROPE Perspective

- ROPE is NOT a cure-all--ROPE IS an experiment.
- ROPE is NOT intended to supplant existing criminal/juvenile justice programs, such as diversion programs--ROPE IS intended to supplement these programs, in recognition of the fact that there exists a population of RO's whose activities must be diminished and upon whom attention and treatment must be focused for the protection of Maryland citizens.
- ROPE is NOT intended to undermine existing adult and juvenile rights under the law--ROPE IS intended to seek out alternative handling of identified RO's to minimize adverse affect upon Maryland citizens.

ROPE Characteristics

- Adaptable Objectives and Implementation. Each participating jurisdiction will be allowed to adapt the given objectives and to decide upon mechanisms for implementation according to its local RO crime/delinquency problem and other local constraints and concerns.
- Sufficient Planning Time and Assistance. Provision will be made for sufficient planning (start-up) time--12 to 18 months--to ensure the viability of ROPE programs. The Governor's Commission and the RO Task Force will be available for technical assistance and intend to provide thorough support and guidance.
- Flexible Design of Program "Mix". Each participating jurisdiction will select the combination of ROPE program models best suited to individual needs and resources from the broad range of sample models provided by the RO Task Force.
- Comprehensive Participation. ROPE programs, as implemented by participating jurisdictions, will involve most if not all of the components (local and state) of the criminal and juvenile justice systems, from those agencies responsible for RO identification and apprehension to those responsible for RO rehabilitation and return to society.
- Innovative/Creative Use of Resources. Recognizing that new resources may not be readily forthcoming, each jurisdiction will seek to commit itself to a ROPE program through the realignment of resources,

changes in policies and procedures, or other actions/activites that will ensure the ROPE program's support.

ROPE Requirements

- Executive Commitment. From the outset, elected and appointed officials and justice executives must make active commitments to the concept of ROPE and to their local ROPE program, and should participate in all policy, program, and resource decisions.

- Coordination: Repeat Offender Steering Councils. Because the need for coordination among participating agencies (local and state) in each jurisdiction is so critical to the success of each ROPE program. RO Steering Councils will be established to ensure continuing executive commitments, plan, monitor, "trouble-shoot", and evaluate the ROPE program.

- Target Population. Each RO Steering Council will define its own specific target population. However, the Repeat Offender Task Force recommends, as a result of its research, that the target population selected should conform to the following parameters:

  --Person is between the ages of 16 and 24;

  --Person has some combination of prior frequency and seriousness of criminal and/or juvenile delinquency behavior;

  --Person's instant offense is a selected, targeted offense.

  The target population should be carefully defined to produce a manageably-sized population (i.e., case-load); a too large or too small target population will defeat the purpose of ROPE.

- Evaluation. Each ROPE program will be evaluated by the RO Steering Council and the Governor's Commission at program conclusion from three primary points of view:

  --How the ROPE program was developed, implemented, and operated;

  --What effect the ROPE program had on the clients, the community, and the criminal and/or juvenile justice system(s);

  --Whether the ROPE program in that jurisdiction should be continued, scrapped, or modified in some basic way.

- Time Frame. Each ROPE program will run (operationally, excluding planning/start-up time) no less than three years for juveniles and no less than five years for adults. (This time frame, however, will not be adequate for determining the efficacy of the correctional/institutional aspect of ROPE programs.) The RO Task Force recommends the adoption of some reasonable termination point beyond which ROPE is either adopted statewide, scrapped, or substantially modified.

ROPE Implementation by Governor's Commission

To ensure RO Steering Councils' basic adherence to the requirements and characteristics of ROPE, the Governor's Commission will disseminate Requests for Proposals (RFP's). The RFP's will itemize ROPE characteristics and requirements and will be accompanied by ROPE Guidelines and Programmatic Alternatives Report. The Governor's Commission and the RO Task Force will be available for consultation in the preparation of proposals. Proposal acceptability will be determined by conformance to the RFP; programmatic exceptions to the RFP may be approved for implementation depending upon circumstances.

ROPE GOALS AND OBJECTIVES

ROPE has two goals, which have been delineated into four major operational objectives and three supporting objectives.

ROPE Goals

- To bring attention to the problem of RO's in Maryland, by developing experimental programs which will focus on manageably-sized groups of RO's in individual jurisdictions through the commitment of the requisite components of the criminal and juvenile justice systems.

- To contribute to greater public safety, by increasing the likelihood that those persons identified as RO's will be:

  --apprehended;

  --convicted/found delinquent;

  --sentenced/disposed;

  --incarcerated/confined in a secure institution;

  --provided correctional programming which will tend to deter future incidence of criminal/delinquent behavior.

ROPE Objectives

- Identification, Apprehension, and Adjudication.

  --To enable law enforcement officers and/or Juvenile Services Administration intake officers to accurately identify those persons identified as RO's.

  --To effect apprehension of RO's, according to proper procedure and processing, in cases having a high probability of court conviction/finding of delinquency.

  --To examine the use of the waiver-to-adult-court provision for those juveniles defined as RO's by the jurisdiction, and to modify or increase its use for such offenders if warranted.

  --To provide thorough and complete preparation and presentation to the courts through written reports and testimony.

  The key elements in this objective area of ROPE are:

  - Identification of RO's;

  - Apprehension of RO's;

  - Enhancement of cases involving RO's, including close coordination between law enforcement agencies and prosecutors.

  A law enforcement agency can approach the RO problem in two ways: go out and attempt to arrest/take into custody those persons already identified as RO's; or wait until a person is arrested/taken into custody for the selected crimes and then check criminal/delinquent history records for evidence of RO status.

  Law enforcement agencies could also create a special unit to closely watch targeted RO's (surveillance) and try to apprehend them in the actual commission of a crime/delinquent act (e.g., New York City Career Criminal Investigation Unit). Law enforcement agencies involved with Integrated Criminal Apprehension Program (ICAP) could modify their program by placing emphasis on the detection, apprehension, and prosecution of the serious RO (e.g., California's Career Criminal Apprehension Program).

In case enhancement, law enforcement agencies develop special procedures for use by police detectives and prosecutors to build solid cases, thus ensuring convictions of targeted RO's under arrest/in custody. Some agencies have established special units which take over the follow-up investigations and case-building activities whenever a targeted RO is arrested/taken into custody (e.g., San Diego's Major Violators Unit; New York City's Felony Augmentation Program).

- Conviction/Finding of Delinquency

--To increase the overall rate of conviction/finding of delinquency for RO's.

--To increase the overall rate of conviction/finding of delinquency for the most serious charges lodged against RO's.

--To reduce the scope of plea negotiation for adult RO's.

The key elements in this objective area of ROPE are:

- Notification: a system of direct police referrals of cases meeting RO criteria;
- Vertical prosecution: one prosecutor has responsibility for a case from beginning to end;
- Limited plea-bargaining: convictions are sought on the top felony charges and/or counts; pleas to lesser charges are strictly limited;
- Coordination: close working relationships are developed among law enforcement agencies, juvenile services, courts and corrections;
- Re-examination of the handling of juvenile RO cases.

Special career criminal units can be established within prosecutor's offices, wherein specific prosecutors and resources are assigned to targeted RO cases (cf. INSLAW's thirteen "Briefing Papers" on the career criminal program). The selection criteria remain the most important aspect of career criminal programs.

The handling of juvenile RO cases by prosecutors could also be re-examined for more vigorous case-building in cases involving recognized juvenile RO's (e.g., Baltimore City State's Attorney's Juvenile Habitual Offender Unit).

- Sentencing/Disposition

--To increase the overall rate of incarceration for RO's.

--To increase the average length of incarceration/confinement for RO's.

The key elements in this objective area of ROPE are:

- Sentencing guidelines;
- Pre-sentence investigation reports;
- Post-conviction and pre-sentence detention.

The RO Task Force research has not uncovered any comprehensive program that covers this programmatic area, although nearly all Prosecutor's Career Criminal programs have reported increased rates of incarceration/confinement and most have reported an increased average length of sentence/disposition.

The Maryland Sentencing Guidelines Project, now operating in four Maryland subdivisions, does not restrict a judge's power to sentence an adult offender with a high degree of judicial discretion. It does require that the judge explain in writing if the sentence disposition falls outside the guidelines. Beyond this experiment, in adult RO cases, judges tend to impose sentences based more upon the defendant's characteristics and the criminal act itself than upon the charge leading to conviction.

Pre-sentence investigation reports could be improved, not only by more thorough preparation but also by the addition of police and victim input.

The Federal Task Force on Violent Crime has come out strongly in favor of modifying the Federal Bail Reform Act, saying that since conviction is presumptively correct at law, a statutory presumption in favor of release is not appropriate after conviction.

- Correctional Programs

--To allocate space for RO's, and to allocate rehabilitative resources for RO's intended to reduce the likelihood of future criminal/delinquent behavior.

--To increase the security level at which RO's are maintained, and to increase time served in higher security as warranted.

--To employ a variety of treatment and case management approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and after-care services as well as community resources, upon RO's.

The key elements of this objective area of ROPE are:

- Prioritizing institutional space for juvenile and adult RO's;
- Maximizing individual space for long-term RO's;
- Developing internal and community programs focused on successful rehabilition of the RO.

If judges are to give priority to RO incarceration/confinement, it is necessary to provide institutional space for RO's; alternatives to incarceration should be confined to non-RO's. However, the usefulness of such alternatives for non RO's as a method for making available the institutional space and resources needed for RO's should be carefully examined.

Citizen concerns about repeat offenders and the need to incarcerate these offenders are of the greatest significance and must be responded to. However, responsible public officials, while assuring that incarceration space is available for these offenders, must simultaneously explicitly address the fact that correctional institutions are extremely costly resources.

A National Institute of Justice study (1981) has shown that long-term inmates are adversely affected by overcrowding and/or double-celling, and recommends single cells of at least 50 square feet.

A number of RO rehabilitation alternatives are open to jurisdictions, including intervention in small, closed residential centers; community supervision programs; aggressive drug and alcohol programs; contracting with the private sector for vocational training and/or after-care services (e.g., job training, placement, etc.); and others. An example is the programs being developed as part of the Office of Juvenile Justice and Delinquency Prevention experiment in five cities to treat hardcore violent juvenile offenders.

ROPE Supporting Objectives

Critical areas which should be addressed by each ROPE program include:

- Timeliness. ROPE program objectives should include:

  --To enable law enforcement officers and/or Juvenile Services Administration intake officers to rapidly identify RO's.

  --To reduce the amount of time required to prosecute/adjudicate RO cases.

  --To reduce the amount of time required to dispose of RO cases.

- Information Availability. ROPE program objectives should include:

  --To assure that accurate and complete information is available to decision-makers at each step as RO cases are processed, particularly with regard to prior criminal/delinquency history, prior institutional history, and victim impact information.

- Legal Challenges. ROPE program objectives should include:

  --To assure that procedures used by police, prosecutors, courts, and correctional personnel to improve the processing of RO's are consistent with constitutional safeguards.

STATEMENT OF HON. JOSEPH A. FUSCO, ATLANTIC COUNTY PROSECUTOR, ATLANTIC CITY, N.J.

Senator SPECTER. Mr. Fusco, we thank you for coming today. I note that you have somewhat less than a year ago been appointed to a 5-year term as county prosecutor. You have a fascinating jurisdiction. You served as special counsel and director to the New Jersey Casino Control Commission. Prior to that time you were assistant prosecutor in charge of Fraud and Special Investigations in Essex County. I note that you have already testified in favor of Mr. Hughes' bill, Congressman Hughes, a very important piece of legislation by a man who has some background, as you and I do, in the prosecution of cases.

We thank you for coming and apologize for the delay. We would ask you for the essence of what you think the Federal Government ought to be doing to help the crime picture.

Mr. FUSCO. Mr. Chairman, first of all, thank you for inviting me to this hearing. I would like to offer the statement we submitted for your record.

Senator SPECTER. Thank you very much. We shall make it a part of the record in full.

Mr. FUSCO. My view has really crystalized through the process of having had an opportunity to testify before Representative Hughes' subcommittee and this subcommittee. During the 12 years of its existence, LEAA expended $7 billion. Atlantic County, over the last 4 or 5 years, has been the beneficiary of some five separate law enforcement grants of significance.

Those grant programs could not have occurred through the normal resources of the prosecutor's office.

We are a midsized prosecutor's office. We have a budget of $2 million. We have 100 employees. We have a county which the whole country is very aware of and which has grown very dramatically in economic activity.

Senator SPECTER. How do you account for that? [Laughter.]

Mr. FUSCO. The legalization of casinos has not only brought economics to Atlantic City, it has brought people to Atlantic City. Just one interesting statistic is that, in 1981, 19 million people visited Atlantic City. In 1981, 12 million people visited Las Vegas. This is a pretty interesting comparison.

Crime also has risen in Atlantic City, but I think that this is not shocking. I do not think it is surprising. I do not think that it is because of a failure on anyone's part. Crime has risen dramatically because the number of people-to-people contracts in the town have risen dramatically.

The budgets, though, of the agencies which are responsible for law enforcement—and most particularly our agency and the Atlantic City Police Department—have not risen as dramatically. These agencies, obviously, did not increase in the proportion that the population and crime increased.

Senator, I think that the best way for me to bring home the need for grant program funding is to share with you rather briefly two separate experiences, two separate grant experiences that were very effective.

OPERATION SEASHORE

One occurred in Atlantic County but was a grant which went to our State police. It was called Operation Seashore and was part of a $250,000 grant to the State police. Operation Seashore was a fencing, undercover State police investigation in which three agents full-time for 1 year infiltrated the criminal community in Atlantic City.

Essentially they started by buying drugs and having discussions with the criminal element. Additionally, another two agents opened a store on Atlantic Avenue. As a mater of fact, the store was about four blocks from our office. For the first 6 months, when the store purported to sell aluminum windows, business was not terrific.

Then, the police changed the method, made the store into Seashore Sales and sold and bought gold. What it really became, though was a fencing operation. During the period of 1 year, $500,000 in stolen goods were recovered. $42,000 in buy money for stolen goods or for drugs was expended. The rent for the store was expended. Moneys to entertain the criminal element were expended.

Senator SPECTOR. Your office set that up?

Mr. FUSCO. This was set up by the State police in our county. This is an example of what LEAA grants——

Senator SPECTER. Your office set that up?

Mr. FUSCO. This was an LEAA grant. It was an LEAA grant which caused this to occur.

Seventy-five percent of that half-million dollars worth of recovered stolen goods were returned to the proper owners. 30 to 40 firearms were bought illegally; 20 autos were bought illegally; and 550 credit cards were bought illegally from 52 different people. The going rate for the top-level credit card was $25 to $30.

Three merchants were convicted of having been in the business of dealing in hot credit cards. A police officer was arrested for selling his official motorcycle and badge, was convicted and received 8 years in jail.

In all, 115 defendants were indicted. 100 of those were convicted. 94 were by guilty plea. And it was only because of this Federal grant that this undercover operation was conducted. It was videotaped and audiotaped. What the program did, Mr. Chairman, was significantly disrupt criminal business in the county, in the community.

Even a county prosecutor's office like ours, which in comparison to other prosecutor's offices in New Jersey has a rather large discretionary fund, confidential fund, to use for buy-money and the like, has no more than $30,000 per year to spend for that kind of operation. This kind of undercover sting operation is simply beyond our ability to undertake without some extra money—money which is not going to come through the county freeholders or the county managers. This money has got to come from an outside source, be it the State or the Federal Government. Otherwise, offices such as ours will not be able to respond to these special conditions.

ORGANIZED CRIME PREVENTION PROJECT

The other program was the Organized Crime Prevention Project. When casino gaming was legalized, the attorney general and the county prosecutors, along with the State Police, realized that this would create a pressing burden on law enforcement. So what was done—through an LEAA grant directly to the county prosecutor's office for 1 year for $100,000—was the initiation of a program permitting the hiring of six investigative people directed toward organized crime activity and organized crime infiltration.

It was a four-pronged project, actually. These six officers, intelligence officers, were responsible for establishing the liaison between the 18 or so agencies, out-of-State agencies from Pennsylvania, including the district attorney's office in Philadelphia, Federal agencies and the other New Jersey State agencies which we regularly deal with.

The experience of Atlantic County and Atlantic City was that an enormous number of law enforcement agencies converged upon and watched that city. This permitted the Atlantic County Prosecutor's Office to become the clearinghouse for all of that intelligence.

Second, we established a process whereby we would review every criminal complaint that came in by an intelligence officer. Every indictable complaint would be reviewed, and an informant-development effort would be made. We would indicate who the individual was, where the individual worked, and we would work on the fact that maybe this person can give us some information on our continuing intelligence gathering.

Third, we made a special effort to monitor and to gather intelligence in the sense of watching real estate transfers, watching mercantile licenses that are issued in the city, watching labor unions, watching who belonged to those labor unions, those labor locals.

The fourth component was that, by decree of the attorney general of the State, he created a four-agency task force comprised of three divisions of the attorney general's office and the prosecutor's office. This task force directed itself toward the issuance and transfer of all liquor licenses in Atlantic City.

The responsibility was placed in this task force rather than in the municipal government for the conduct of a background investigation of every applicant.

All of this program still exists. Even though the grant was only for 1 year, after that year the county could see that it would have to pick up and continue to fund these six investigative positions.

Senator SPECTER. So that seed money has taken root?

Mr. FUSCO. Yes. Without it, Mr. Chairman, there would have not been an ability in the prosecutor's office to perform this function. I think that no reasonable person would disagree with the fact that in Atlantic County, with the advent of casino gaming, this clearinghouse-kind of repository for organized crime intelligence had to exist.

These are just two examples.

Senator SPECTER. What about the future? What should we be doing in the future?

Mr. FUSCO. Well, we can always sit down and go to the drawing boards, Mr. Chairman, and come up with ideas; but if there is no place to go with the request for money, I cannot expect our county board of freeholders to understand particular law enforcement problems. It has to worry about balancing the entire county budget. It is not sensitive to our special problems.

Senator SPECTER. So the seed money shows the way, and then it can be picked up at the local level?

Mr. FUSCO. There is no doubt. We have example after example of it here. Once the grant program is in place and it is shown to be demonstrably effective, I have no problem convincing the county freeholders to continue to fund it. But getting it there, getting the county freeholders to take on a new project, is a proposition which is difficult, at best, in these difficult fiscal times.

Senator SPECTER. Mr. Fusco, thank you very much.

[A letter to Senator Specter and the prepared statement of Mr. Fusco follow:]

OFFICE OF THE PROSECUTOR

COUNTY OF ATLANTIC

JOSEPH A. FUSCO
Prosecutor

1625 Atlantic Avenue
Atlantic City, N.J. 08401
(609) 345-6700

February 9, 1982

Arlen Specter, U.S.S.
Chairman, Subcommittee on Juvenile Justice
Senate Committee of the Judiciary
Washington, D.C. 20510

RE: Impact of Demise of L.E.A.A.

Dear Chairman Specter:

In response to your request of last week, attached please find my 13 page statement on the impact of the impending April 15, 1982 termination of the L.E.A.A. and its grant program which has existed since 1968. I expect to personally testify before the Subcommittee on Juvenile Justice at its hearing in Washington on February 11. Plainly, the loss of this primary source of Federal aid to law enforcement agencies which has expended $7 billion during its twelve years of active existence will significantly reduce the development of innovative criminal justice techniques and programs.

Last May, together with several other County Prosecutors and the then New Jersey Attorney General James Zazzali, I testified before the House Subcommittee on Crime in favor of the proposed Justice Assistance Act introduced by Representative Hughes. It should be noted, however, that neither Governor Thomas Kean nor Attorney General Irwin Kimmelman, both of whom took office in January, have to my knowledge yet taken a position on such Federal initiatives to replace the L.E.A.A.

Very truly yours,

Prosecutor

JAF:tcg
atc.

PREPARED STATEMENT OF JOSEPH A. FUSCO

INTRODUCTION

Ten months ago I was sworn in as prosecutor and chief law enforcement officer of Atlantic County in New Jersey. For three and one-half years prior to that date I served as the New Jersey Casino Control Commission's first director of licensing. During these periods I have become aware of the unique, extraordinary and developing problems of crime which face the Criminal Justice System in that State, County and in Atlantic City. As Prosecutor, I welcome the opportunity to address the Subcommittee on Juvenile Justice concerning the impact on state and local law enforcement agencies of the impending April 15, 1982 termination of the Law Enforcement Assistance Administration. Its demise, after having expended $7 billion in the twelve years from 1968 to 1980, would obviously eliminate the primary source of federal financial aid to such state and local agencies.

I note that in May of last year, shortly after becoming the Atlantic County Prosecutor, I testified before the Crime Subcommittee of the House Judiciary Committee in favor of the proposed "Justice Assistance Act" of Rep. William J. Hughes which, after modification through further Subcommittee hearings, was approved by the House Judiciary Committee on September 22, 1981. That bill, HR 4481, was scheduled for a vote by the full House on Tuesday, February 11, 1982.

1. STIMULATED ECONOMIC ACTIVITY

The legalization of casino gaming in Atlantic City almost five years ago has brought dramatic economic activity to this area. Atlantic City, with a year-round resident population of 40,000 was visited by 19 million tourists in 1981. This was a 36% increase over the number of 1980 visitors here. Also, in 1981, the Atlantic City workforce increased by approximately 9,000 new casino industry jobs. The now nine operating casino hotel complexes have added more than 30,000 casino industry jobs to the Atlantic City workforce, which has greatly stimulated labor union activity in this resort.

More than 4,000 vendors have already dealt with operating casinos thereby similarly stimulating the alcoholic beverage, vending machine, food purveyor, linen supplier, security, maintenance and garbage industries within the region. Slot machine, casino equipment and gaming school companies are, for the first time, now in business in this State.

The more than one billion dollars in construction monies which have been expended in Atlantic City within the last four years has created thousands of construction jobs and breathed new vitality and activity into labor unions representing workers in the building trades.

Incredibly, in the three years following the first roll of the dice at Resorts International on May 26, 1978, the general public was willing to wager more than six billion dollars at the legal casinos of Atlantic City.

2. CRIME

The 194,000 year-round population of Atlantic County represents slightly less than 3% of the state's population. In 1980, as the state was experiencing a 10% overall crime index increase, crime in Atlantic County rose by 37%. Statistical analysis seems to confirm that this extraordinary increase was almost exclusively attributable to the rise in Atlantic City crime. In 1980, while violent crime in the urban areas of the state rose by 24%, violent crime in Atlantic City rose by 35%. In 1980, non-violent burglary and theft crime which represents 90% of all reported crime rose by 13% in the urban areas of New Jersey. In Atlantic City, non-violent crime rose by 77%.

In the first six months of 1981, the overall crime index in both New Jersey (up 2%) and Atlantic County (up 4%) rose at considerably less alarming rates. In Atlantic City, however, indexed violent crime did again rise by 33% (as compared to the 13% rise experienced in all New Jersey urban areas) and indexed burglary and theft crime rose by 9% (as compared to the 3% rise in urban areas generally).

3. FISCAL CONSTRAINTS and the LAW ENFORCEMENT CAPABILITY

Presently, the Atlantic City Police Department employs 447 persons, 322 of whom are police officers. This is a staffing level substantially similar to that of the pre-casino era. The Office of the County Prosecutor is now staffed by 16 attorneys, 41 detective/investigators and approximately 43 clerical persons. The inflation of recent years, current "cap" limitations on increases in local government budgets and drastic reductions in federal funding have made it increasingly difficult for law enforcement agencies to effectively respond to the rising crime rate, especially where the statistics are as dramatic as those in this jurisdiction.

4. ATLANTIC COUNTY PROJECTS

In recent years, Atlantic County and its local law enforcement agencies, have directly benefited from L.E.A.A. grants in programs relating to arson, organized crime, career criminals, "PROMIS" and victim-witness-juror assistance. Each of these projects, in my opinion, has successfully strengthened the capabilities of law enforcement within the county.

A. ARSON TRAINING

(1982: $3,068 with no matching state or local funds)

Federal L.E.A.A. funding in recent years has permitted research resulting in many valuable reports, manuals and books on the subject of arson investigation. In New Jersey, it permitted the creation of a statewide arson task force which for the first time developed a statewide strategy for arson control wherein priorities were set and programs recommended. One recommendation was the requiring of the now mandatory statewide Fire Incident Reporting System. Also, in 1979, such federal funding permitted Atlantic City to purchase a modern, specially equipped arson van which otherwise would have been unavailable to it.

Perhaps the greatest impact of such arson grants in New Jersey has been the development of statewide training programs for full time and volunteer fire officers and for law enforcement personnel. A 21-hour "awareness course" has been attended by six investigators in this county and a 90-hour in-depth "investigation course" has been attended by another five such officers. One investigator in the county has been trained in a sophisticated "fraud analysis course" which dealt with investigative techniques for uncovering complex arson schemes. Through federal funding, a six week "awareness training" for 150 Atlantic County police officers and fire fighters is presently being coordinated by this Office.

It is somewhat difficult to substantiate the success of these training programs with statistics. Although there was a marked increase in Atlantic County in the number of arrests for arson in 1980 over 1979, the number of investigations conducted has not kept pace with the increasing number of arsons now being identified by scene examinations. The lack of trained investigators available for the time consuming and complex follow-up investigation, case preparation and prosecution, however, renders our attempts to make real progress in fighting this costly crime difficult.

What has been done to date is the first step in a long road ahead. Without funding, the future of such research, training, new equipment and facilities is doubtful. There is no question as to the interest and enthusiasm of those currently involved or those who believe they may have the opportunity to become involved in the fight against arson. Such enthusiasm must be nurtured and directed with proper leadership and training if any success or progress is to be realized.

B. ORGANIZED CRIME PREVENTION PROJECT
(One year; $100,000 with 10% State County Buy In)

In 1977, law enforcement agencies that were to be affected by the passage of the casino gaming referendum commenced appropriate study and planning directed toward the purpose of minimizing the myriad of problems that were anticipated. The Atlantic County Prosecutor in conjunction with the Attorney General recognized that the then occurring increase in economic activity in the Atlantic City area brought about by casino gaming would attract organized crime elements which, like any other business enterprises, tend to gravitate to opportunities for profit. Of particular concern was the likelihood of organized crime infiltration into labor unions and into a variety of white collar crime, real estate acquisition and legitimate business activities. Also expected was the traditional organized crime role of supplying illegal goods and services to the general populace such as loansharking, gambling, narcotics, prostitution, arson and other criminal business.

To address these organized crime problems and with a realization that specially trained prosecutive and investigative units were needed, the Atlantic County Prosecutor on December 1, 1977, applied for and received a $100,000 one year grant from L.E.A.A. to fund the Atlantic County Organized Crime Prevention Project between January and December, 1978. A state and county buy-in of 10% was required. The grant permitted the Prosecutor to hire six additional investigators and two clerical persons dedicated exclusively to the project. The manpower and equipment that was acquired formed the nucleus of the Special Prosecution Section of the Office which was given responsibility for the investigation and prosecution of organized crime activities, official corruption and white collar crime. That section, augmented by the personnel and equipment obtained through the grant, has been successful for the past several years in returning indictments and obtaining convictions in these areas; in monitoring organized crime activities in areas including infiltrations into legitimate businesses and labor racketeering; and in intelligence gathering for use in focusing attention on specific criminal offenders.

More must be done to appropriately address these problems. For example, in 1977, only a single organized crime family was documented as operating in the Atlantic City area. Today, in 1982, the presence of four major organized crime families has been documented in the Atlantic City area. Fortunately, at the present time, the crime families which maintain this presence have not yet so infiltrated legitimate business enterprises so as to affect the market place although it is expected that attempts at such infiltration will continue. Organized crime does, however, seem to control the flow of substantial amounts of illicit goods and services into this area. In terms of retarding both further organized crime infiltration and related white collar criminal activity, further specially designed prevention projects will be needed.

C. ANTI-BURGLARY AND FENCING "STING" OPERATIONS

Although funding for state and local law enforcement efforts is primarily the responsibility of these government entities, in specific problem areas, federal funding has long stimulated the development of innovative programs to combat crime. An example is the federal funding of covert investigations directed toward the disruption of illicit commerce in stolen property, more commonly known as "sting" operations. Prior to the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, I am not aware of any successful "sting" operations. Yet such operations have since proven to be the only successful method of adequately infiltrating the criminal community so that law enforcement agencies could identify conspirators and obtain evidence for successful prosecution. Because "sting" operations are costly, however, they normally are beyond the regular funding capabilities of local and state agencies.

D. CAREER CRIMINAL PROGRAM
(Two Years, $100,000 with 10% State County Buy-In)

In late 1978, the Atlantic County Prosecutor was awarded the first of two consecutive one-year $50,000 L.E.A.A. grants to enable the Office to focus special attention on the prosecution of the small percentage of street crime recidivists which account for a great percentage of street crime because they have made the commission of such crimes their career. During the period from March, 1979 to May, 1981, the grant was applied toward the salaries of two attorneys and one clerical person assigned to the identification and prosecution of persons charged with homicide, aggravated assault, burglary, robbery or sexual assault who had a significant prior history of arrests or convictions for such target crimes. Once such an offender was identified, and this occurred within two days of arrest, the case would be assigned to one of the two assistant prosecutors for handling in a "vertical" manner. That same attorney would thereafter represent the Office during the bail, investigative, grand jury, plea, trial, sentence and parole stages of the prosecution. During the two years of the program, 250 career criminal cases were processed and most resulted in guilty pleas. Fifteen of the eighteen trials resulted in verdicts of guilty. In 1980, those designated as career criminals sentenced for violent crime offenses received an average custodial term of 23 years.

The program still exists and is presently being reviewed as to both the target crime and criminal history criteria for possible redefinition. It is noteworthy that, because of this program, computerized criminal history print-outs are now regularly available in this County virtually immediately after arrest.

E. "PROMIS" PROJECT
(Equipment; $157,000 with a 10% County Buy-In)

The computer-based prosecutor management information system known as "PROMIS" has been in existence since 1973. In late 1978, on a statewide basis through then Attorney General Degnan, New Jersey applied for and obtained a one million dollar L.E.A.A. grant which the state matched with an equal contribution to fund the development and implementation of a derivative of the PROMIS system in twelve county prosecutor's offices with a central control within the office of the Attorney General. What this means to Atlantic County, in a financial sense, is that it will receive $157,000 of computer equipment for a 10% county buy-in. The installation of the "PROMIS" system in the first prosecutor's office in the State, Morris County, was completed in January of 1982. Atlantic County will probably receive the system in late 1982. The system, of course, has thus not yet been utilized in New Jersey. However, it is clear that it will become an indispensable management tool in the tracking of cases and court events through the criminal justice process on both a countywide and eventually statewide basis.

5. CRIMINAL JUSTICE EMERGENCY

As noted, Atlantic County, because of the extraordinary and dramatic impact of casino gaming on the work of law enforcement agencies and virtually all other government services in the area is unique in this nation. Both Atlantic City and the entire county are virtual laboratories where innovative approaches in prosecuting, controlling and preventing both organized crime activities and street crimes must continually be developed and applied if law enforcement is to succeed in its war against the ever rising crime rates.

Senator SPECTER. How are you enjoying your work as prosecutor?

Mr. FUSCO. I am enjoying it more and more. It is pretty exciting. It is more administration, Senator.

Senator SPECTER. How many assistant DA's do you have?

Mr. FUSCO. We have 18 attorneys in the office, and we have a staff of 40 investigators.

Senator SPECTER. $33,000 for discretionary buys is not too bad. I do not think the Philadelphia District Attorney's Office had that when I was DA, and I think that is not bad.

May I ask you how old you are?

Mr. FUSCO. I am 37.

Senator SPECTER. Well, it is a great job you have, and I compliment you for working at it. There is a strong rumor in Atlantic City that you could make more in the private practice of law there. [Laughter.]

Mr. FUSCO. We just got a raise, Senator.

Senator SPECTER. Thank you very much. We appreciate your being here.

[Whereupon, at 1:20 p.m., the subcommittee was adjourned.]

FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT

THURSDAY, MARCH 18, 1982

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:32 a.m., in room 2228, Dirksen Senate Office Building, Hon. Arlen Specter (chairman) presiding.

Staff present: Bruce A. Cohen, chief counsel and Marjorie Miller, staff assistant.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen.

The hour of 9:30 having arrived, the Subcommittee on Juvenile Justice convenes this morning to examine the appropriate role for the Federal Government in assisting State and local law enforcement.

In 1967, the President's Commission on Law Enforcement Administration Justice observed crime increased as a national as well as a State and local phenomenon.

It does not often respect geographic boundaries.

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals ended almost 2 years of studies with its report which detailed specific goals, priorities, and recommendations for a coordinated national effort against crime. Having served on that Commission, I recall vividly the conclusion that violent crime can be cut by 50 percent if appropriate steps were taken, but as yet, that has not been accomplished.

This past year, the Attorney General appointed a special task force on violent crime which came forward with specific recommendations.

The House of Representatives very recently passed H.R. 4481, the Justice Assistance Act of 1981. This bill received strong bipartisan support and would establish a program of Federal aid to hard-pressed city and county law enforcement efforts to combat crime.

In addition to H.R. 4481, there are presently pending before this subcommittee legislative proposals introduced by Senate colleagues which seeks to accomplish many of the same purposes.

Given the substantial work already accomplished by the House on this issue, I am anxious to have this subcommittee move ahead with the House bill for consideration.

[Text of H.R. 4481 follows:]

97TH CONGRESS
2D SESSION

H. R. 4481

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 1982

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SHORT TITLE

SEC. 101. This Act may be cited as the "Justice Assistance Act of 1981".

OFFICE OF JUSTICE ASSISTANCE

SEC. 102. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711–3713) is amended in the heading to such part by striking out "LAW ENFORCEMENT ASSISTANCE ADMINISTRATION" and inserting in lieu thereof "OFFICE OF JUSTICE ASSISTANCE".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended—

(1) in the heading of such section by striking out "LAW ENFORCEMENT ASSISTANCE ADMINISTRATION" and inserting in lieu thereof "OFFICE OF JUSTICE ASSISTANCE",

(2) by striking out "Law Enforcement Assistance Administration (hereinafter referred to in this title as the 'Administration')" and inserting in lieu thereof "Office of Justice Assistance (hereinafter referred to as the 'Office')",

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(4) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director", and

(5) by striking out "Deputy Administrators" and inserting in lieu thereof "Deputy Directors".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by striking out "and units of local government",

(3) by amending paragraph (2) to read as follows:

"(2) establish national priorities for programs in accordance with part E, inform States, units of local government, and private nonprofit organizations of such priorities, and award and allocate funds and technical assistance to such organizations according to the criteria and on the terms and conditions determined by the Director to be consistent with part E;".

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "Office", and

(5) in the heading for such section by striking out "ADMINISTRATOR" and inserting in lieu thereof "DIRECTOR".

(d) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711–3713) is amended by striking out section 103.

NATIONAL INSTITUTE OF JUSTICE

SEC. 103. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) in subsection (c)—

(A) in paragraph (2)(A) by striking out ", including programs authorized by section 103 of this title", and

(B) in paragraph (10)—

(i) by striking out "national priority grants under part E and", and

(ii) by striking out "part F" and inserting in lieu thereof "part E", and

(2) in subsection (d)(5) by striking out "part H" and inserting in lieu thereof "part G".

(b) Section 204(a) of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724(a)) is amended by striking out "The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention," and inserting in lieu thereof "The Director of the Office of Justice Assistance,".

BUREAU OF JUSTICE STATISTICS

SEC. 104. Section 304(a) of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3734(a)) is amended by striking out "The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention," and inserting in lieu thereof "The Director of the Office of Justice Assistance,".

FORMULA GRANTS

SEC. 105. (a) Section 401 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) is amended—

(1) in subsection (a)—

(A) by striking out "innovative programs" and all that follows through "success, or" and insert in lieu thereof "programs",

(B) by striking out "and units of local government" the second place it appears,

(C) by striking out "Administration" and inserting in lieu thereof "Office", and

(D) by amending paragraphs (1) through (23) to read as follows:

"(1) providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(2) disrupting illicit commerce in stolen goods and property;

"(3) combating arson;

"(4) effectively investigating and bringing to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(5) identifying and processing within the criminal justice system persons (including juvenile offenders) with a history of serious criminal conduct;

"(6) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(7) providing alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(8) providing programs which identify and meet the needs of drug-dependent offenders;

"(9) providing programs which alleviate prison and jail overcrowding;

"(10) providing training, management, and technical assistance to criminal justice personnel;

"(11) administering programs receiving assistance under this part and coordinating the activities of components of the criminal justice system;

"(12) providing management information systems for criminal justice agencies;

"(13) providing programs which are innovative and address critical problems of crime;

"(14) providing programs of the same types as programs for which financial assistance was provided under paragraph (13) or section 501(4) and which were certified by the Director, primarily on the basis of any available objective, empirical, or statistical information or evaluation, as having proved a success;

"(15) providing programs which address the problem of serious offenses committed by juveniles; and

"(16) providing programs which address the increase in the incidence of offenses committed against the elderly and which address the stress and fear among the elderly caused by such offenses.".

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) For any fiscal year ending after September 30, 1981, the Federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application for such grant, except that—

"(A) in the case of funds distributed for a program or project described in subsection (a)(13), the Federal portion shall be 75 per centum of such cost; and

"(B) in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion shall be 100 per centum of such cost.",

(B) in paragraph (2)—

(i) by striking out "(2)(A)" and inserting in lieu thereof "(2)", and

(ii) by striking out subparagraph (B),

(3) by striking out subsection (c), and

(4) by amending subsection (b)(3) to read as follows:

"(c) A grant recipient shall assume the cost of a current program or project funded under this part after a four-year period (including any period occurring before the effective date of this subsection) of Federal assistance.".

(b) Section 402 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3742) is amended to read as follows:

"ELIGIBILITY

"SEC. 402. The Office is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.".

(c) Section 403 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743) is amended—

(1) in subsection (a)—

(A) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(B) by striking out "three-year" and inserting in lieu thereof "two-year",

(C) in the first sentence by inserting ", designates which objective specified in section 401(a) each such program is intended to achieve, and identifies the State agency or unit of local government which will implement each such program" before the period,

(D) in paragraph (3) by striking out ", and to the council where the applicant is a State agency, the judicial coordinating committees, a nongovernmental grantee, or a unit or combination of units of local government",

(E) in paragraph (6)—

(i) by striking out "a provision for" and inserting in lieu thereof "an assurance that", and

(ii) by inserting "will be provided" after "prescribe",

(F) in paragraph (7)—

(i) by striking out "a provision for the maintenance of" and inserting in lieu thereof "an assurance that the State will maintain", and

(ii) by striking out "for the submission of" and inserting in lieu thereof "submit",

(G) in paragraph (8)—

(i) by striking out "officer" the first place it appears, and

(ii) by striking out "and" at the end thereof,

(H) in paragraph (9) by striking out the period and inserting in lieu thereof a semicolon,

(I) by striking out paragraphs (1), (2), and (5),

(J) by redesignating paragraphs (3), (4), (6), (7), (8), and (9) as paragraphs (1), (2), (3), (4), (5), and (6), respectively, and

(K) by adding at the end thereof the following new paragraphs:

"(7) an assurance that not more than 10 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the objective specified in section 401(a)(13); and

"(8) an assurance that not more than 5 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the objective specified in section 401(a)(11).", and

(2) by amending subsection (b) to read as follows:

"(b) The executive officer of a State shall submit the application described in subsection (a), and any amendment to such application, to the State legislature while in session, or to a body designated to act in behalf of the State legislature if the State legislature is not then in session, for review. For purposes of section 404, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the ninety-day period beginning on the day it is so submitted.".

(d) Section 404 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3744) is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking out "and" at the end thereof,

(B) in paragraph (3) by striking out the period and inserting in lieu thereof "; and",

(C) by inserting after paragraph (3) the following new paragraph:

"(4) prior to the approval of the application or amendment thereof the Office has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 403(b).", and

(D) by inserting before the period at the end thereof "or the application or amendment has not been reviewed in accordance with section 403(b)",

(2) in subsection (b) by striking out "section 802(b)" each place it appears and inserting in lieu thereof "section 701(b)",

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) the purchase of equipment or hardware, or the payment of personnel costs, unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 401(a);", and

(B) in paragraph (4) by striking out "Law Enforcement Assistance Administration," and inserting in lieu thereof "Office of Justice Assistance,",

(4) in subsection (d)—

(A) by striking out "Administrator" and inserting in lieu thereof "Director", and

(B) by striking out "section 803" and inserting in lieu thereof "section 702", and

(5) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(e) Section 405 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3745) is amended to read as follows:

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for this part and part E in any fiscal year, 80 per centum shall be set aside for this part and allocated to States as follows:

"(1) One-fourth of 1 per centum of the amount set aside for this part, but not to exceed $250,000, shall be allocated to each of the participating States.

"(2)(A) Of 50 per centum of any funds remaining after the allocation under paragraph (1) is made, there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all the States.

"(B) Of 50 per centum of any funds remaining after the allocation under paragraph (1) is made, there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the number of part I offenses, in the Uniform Crime Reports, reported to the Federal Bureau of Investigation by such State in the preceding fiscal year bears to the aggregate number of part I offenses, in the Uniform Crime Reports, reported to the Federal Bureau of Investigation in such preceding fiscal year by all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 401(a) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for law enforcement in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for law enforcement in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Office determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, then such portion shall be reallocated to the other participating States.".

(f) Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741–3745) is amended by adding at the end thereof the following new section:

"STATE OFFICE

"SEC. 406. (a) Each participating State shall establish or designate by statute a State office for purposes of—

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Office of Justice Assistance and its predecessor agency, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).".

NATIONAL PRIORITY GRANTS

SEC. 106. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 107. (a) Sections 601 and 602 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761–3762) are amended to read as follows:

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope, which address the purposes specified in section 401, and which have not received sufficient funds under part D; and

"(4) providing financial assistance to States and units of local government for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year—

"(1) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501; and

"(2) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purpose specified in paragraph (4) of section 501.

The Director shall ensure that the primary recipients of grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501 are private nonprofit organizations. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.".

(b) Section 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3763) is amended—

(1) in subsection (a)—

(A) by striking out "The Director of the Office of Justice, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "The Director of the Office of Justice Assistance", and

(B) by striking out "and jointly", and

(2) in subsection (b)—

(A) by striking out "and such Administrator" each place it appears,

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance",

(C) by striking out "jointly have" and inserting in lieu thereof "has", and

(D) by striking out "jointly" each place it appears.

(c) Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(d) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(2) by striking out "section 603" and inserting in lieu thereof "section 503",

(3) by striking out the third sentence, and

(4) by striking out "type of section 402 eligible jurisdiction" and inserting in lieu thereof "State".

(e) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(f) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761–3766) is amended by striking out "PART F" and inserting in lieu thereof "PART E".

(g) Part E of title I, as so redesignated, is amended by redesignating sections 603, 604, 605, and 606 as sections 503, 504, 505, and 506, respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 108. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3775) is amended—

(1) by striking out sections 701, 702, and 703,

(2) in section 705 by striking out "Administration" each place it appears and inserting in lieu thereof "Office", and

(3) by redesignating sections 704 and 705 as sections 601 and 602, respectively.

(b) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "PART G" and inserting in lieu thereof "PART F".

ADMINISTRATIVE PROVISIONS

SEC. 109. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801.

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Office of Justice Assistance, the

Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Administration" and "law Enforcement Assistance Administration" each place they appear and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears, and

(3) in subsection (c) by striking out "Administration," and inserting in lieu thereof "Office,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 702, 703, or 712(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786–3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788–3789) are amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office".

(k) Section 815 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall each submit a report to the President and to the Speaker of the House of Representatives and the President of the Senate, on their activities under this title during the fiscal year next preceding such date.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 712(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(s) The heading for part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by striking out "PART H" and inserting in lieu thereof "PART G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by redesignating sections 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, and 826 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, and 723, respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by striking out sections 808, 809, and 827.

(v) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by adding at the end thereof the following new section:

"STAFF SUPPORT; COORDINATION OF ACTIVITIES

"SEC. 724. The Office of Justice Assistance may directly provide staff support to, and assist in coordinating the activities of, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention.".

DEFINITIONS

SEC. 110. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition,", and

(2) by striking out ", but does not include renovation, repairs, or remodeling".

(c) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "PART I" and inserting in lieu thereof "PART H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 111. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by inserting "(a)" after "SEC. 1001.",

(2) in the third sentence—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance",

(B) by striking out "$750,000,000" each place it appears and inserting in lieu thereof "$170,000,000",

(C) by striking out "and" following "1982;" and inserting the following between "1983" and the period: "; and $170,000,000 for the fiscal year ending September 30, 1984", and

(D) by striking out "parts D, E, F, G, H, and J" and inserting in lieu thereof "parts D, E, F, and G",

(3) by striking out "part L" each place it appears and inserting in lieu thereof "part K", and

(4) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D and E of this title may be expended for programs or projects involving the resolution of civil disputes or may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out sections 1002 and 1003.

(c) The heading for part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out "PART J" and inserting in lieu thereof "PART I".

(d) Part I, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793–3793b) is amended by redesignating section 1001 as section 901.

CRIMINAL PENALTIES

SEC. 112. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by striking out "PART K" and inserting in lieu thereof "PART H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by redesignating sections 1101, 1102, and 1103 as 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 113. (a) Sections 1201 and 1204 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) The heading for part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) is amended by striking out "PART L" and inserting in lieu thereof "PART K".

(c) Part K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as 1101, 1102, 1103, and 1104, respectively.

TRANSITION

SEC. 114. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799(a)) is amended—

(1) in subsection (a)—

(A) by striking out "the Office of Justice Assistance, Research, and Statistics or",

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(C) by striking out "or the Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance", and

(2) by striking out subsection (j), and

(3) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "PART M" and inserting in lieu thereof "PART L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

TABLE OF CONTENTS

SEC. 115. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701–3799) is amended—

(1) by amending the item relating to part A to read as follows:

"PART A—OFFICE OF JUSTICE ASSISTANCE"

(2) by striking out the item relating to section 103,

(3) by adding at the end of the items relating to part D the following new item:

"Sec. 406. State office.".

and

(4) by amending the items relating to parts E, F, G, H, I, J, L, and M, to read as follows:

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.
"Sec. 506. Period for award.

"PART F—TRAINING AND MANPOWER DEVELOPMENT

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.
"Sec. 602. Criminal justice education program.

"PART G—ADMINISTRATIVE PROVISIONS

"Sec. 701. Consultation; establishment of rules and regulations.
"Sec. 702. Notice and hearing on denial or termination of grant.
"Sec. 703. Finality of determinations.
"Sec. 704. Appellate court review.
"Sec. 705. Delegation of functions.
"Sec. 706. Subpena power; authority to hold hearings.
"Sec. 707. Employment of hearing officers.
"Sec. 708. Authority to use available services.
"Sec. 709. Consultation with other Federal, State, and local officials.
"Sec. 710. Reimbursement authority.
"Sec. 711. Services of experts and consultants; advisory committees.
"Sec. 712. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 713. Report to President and Congress.
"Sec. 714. Recordkeeping requirement.
"Sec. 715. Confidentiality of information.
"Sec. 716. Authority to accept voluntary services.
"Sec. 717. Administration of juvenile delinquency programs.
"Sec. 718. Prohibition on land acquisition.
"Sec. 719. Prohibition on use of CIA services.
"Sec. 720. Indian liability waiver.
"Sec. 721. District of Columbia matching fund source.
"Sec. 722. Limitation on civil justice matters.
"Sec. 723. Reimbursement for unused equipment.
"Sec. 724. Staff support; coordination of activities.

"PART H—DEFINITIONS

"Sec. 801. Definitions.

"PART I—FUNDING

"Sec. 901. Authorization of appropriations.

"PART J—CRIMINAL PENALTIES

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"PART L—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1201. Continuation of rules, authorities, and proceedings.".

REFERENCES IN OTHER LAWS

SEC. 116. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the Director of the Office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe

Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, or to the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 117. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"Director, Office of Justice Assistance.".

(c) Section 1761(c) of title 18, United States Code, is amended by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Office of Justice Assistance".

EFFECTIVE DATE

SEC. 118. This title shall take effect on October 1, 1982.

TITLE II—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

APPLICATION

SEC. 201. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with the Director of the Office of Justice Assistance and appropriate members of the Federal law enforcement community, approve or disapprove such application not later than ten days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of the crime problem throughout a State or in any part of a State,

(2) the emergency or extraordinary circumstances which produced the problem,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

DEFINITIONS

SEC. 202. For purposes of this title—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 203. (a) Nothing in this title authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this title shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) Nothing in this title shall be construed to authorize the Attorney General or the Federal law enforcement community—

(1) to condition the availability or amount of Federal law enforcement assistance upon the adoption by an applicant for such assistance of, or

(2) to deny or discontinue such assistance upon the failure of such applicant to adopt,

a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency of such applicant.

(d) No funds provided under this title may be used to supplant State or local funds that would otherwise be made available for such purposes.

(e) Nothing in this title shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

SEC. 204. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this title.

(b) Paragraph (3) and paragraph (4) of section 712(c) of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

SEC. 205. Section 715 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to—

(1) information furnished under this title,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this title, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this title,

except that the terms "this title" and "this section", as such terms appear in such section 715, shall be deemed to be references to this title and this section, respectively, of this Act, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such section 715 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

SEC. 206. No funds provided under this title shall be used for land acquisition.

REPAYMENT

SEC. 207. (a) If Federal law enforcement assistance provided under this title is used by the recipient of such assistance in violation of section 204 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

SEC. 208. (a) Each recipient of Federal law enforcement assistance provided under this title shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this title which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

SEC. 209. Not later than April 1 of each year, the Attorney General shall submit to the President, to the Speaker of the House of Representatives, and to the President of the Senate a report describing Federal law enforcement assistance provided under this title during the calendar year preceding the date such report is made.

OFFICE OF JUSTICE ASSISTANCE

SEC. 210. The Director of the Office of Justice Assistance may assist the Attorney General in providing Federal law enforcement assistance under this title and in coordinating the activities authorized under this title.

LIMITATION ON CIVIL JUSTICE MATTERS

SEC. 211. Federal law enforcement assistance provided under this title may not be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 212. The Attorney General, after consultation with appropriate members of the law enforcement community and with State and local officials, shall issue rules to carry out this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 213. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1982, to provide under this title Federal law enforcement assistance other than funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1982, such sums as may be necessary to provide under this title Federal law enforcement assistance in the form of funds.

Passed the House of Representatives February 10, 1982.

Attest: EDMUND L. HENSHAW, JR.

Clerk.

Senator **Specter**. We have with us today a distinguished group of prosecuting attorneys and Members of the House of Representatives, and in accordance with protocol, I would like to call at this time on the Honorable William J. Hughes, chairman of the Subcommittee on Crime and the Honorable Robert McClory III, ranking member of the Committee on the Judiciary.

It is with pleasure I welcome to this hearing room Bill Hughes, a prosecutor of reknown, from south Jersey, in the Philadelphia area.

We, in the Philadelphia area, used to call it part of the Philadelphia scene, much to the chagrin of south Jersey, but while I was the district attorney in Philadelphia, Bill was the prosecutor in south Jersey. I don't know whether we have succeeded or receded, but here we are on the other end of the law mechanism, trying to make laws instead of enforcing them, and the legislation which has come out of the House shows a good deal of insight and accomplishment based on Bill Hughes' accomplishments.

STATEMENT OF HON. WILLIAM J. HUGHES, CHAIRMAN OF THE SUBCOMMITTEE ON CRIME, OF THE HOUSE COMMITTEE ON THE JUDICIARY

Representative **Hughes**. Thank you, Senator Specter, for that gracious introduction. It is gratifying to have your support and to work with someone with your knowledge and expertise in this area. As a fellow former prosecutor I know we share many similar objectives with respect to anticrime legislation. I am proud to bring to this committee a major Federal initiative in the fight against crime. The bill, H.R. 4481, authorizes the expenditure of a modest amount of Federal funds to assist State and local governments in the struggle against crime in the streets.

I believe that this bill, which has broad bipartisan support, can become law. I believe that we have learned the painful lessons of the limitations of a Federal criminal justice program. But I also believe that we have found some criminal justice programs that really work. Through the leadership of thoughtful and resourceful prosecutors like yourself across the country, we have developed victim-witness programs, career criminal programs and white collar initiatives. I know, Senator, that you believe in these programs because in many instances you were on the cutting edge of their development. I hope that you see this bill as a continuation of the crime fighting initiatives you undertook as district attorney in Philadelphia.

Unlike existing law, this bill does not provide authority and money to build a huge self-sustaining bureaucracy with Federal money. It does not imply that we can cure the crime problem of America by the infusion of Federal money, and it does not permit the money to be spent for any and all undertakings that fall within the criminal justice system. Instead, the small amount of money is targeted at specific critical crime problems, such as career criminals, arson, jail and prison overcrowding, and serious juvenile crime. It is targeted at real crime problems, and the Federal money is matched dollar-for-dollar with State and local funds in most cases, to assure that the users believe in the programs. Some of the money authorized can be used for testing new ideas, but the vast majority of the dollars will go into programs that have been shown to work.

Additionally, the bill creates for the first time in Federal law a requirement that the Attorney General coordinate the Federal law enforcement response to crime emergencies such as those experienced in south Florida and Atlanta.

We all know the sad, and often troubling history of the Law Enforcement Assistance Administration [LEAA]. LEAA, while designed to meet a legitimate need, unfortunately got caught up in a swirl of conflicting goals and ineffective administration. I might say, parenthetically, that when it came to the Congress, the early supporters of LEAA ended up voting against it even though it came out of my committee for some of the reasons indicated in my statement. We lost the momentum.

However, LEAA did produce some impressive results despite its generally negative image. LEAA fostered the development of programs dealing with career criminals, sting operations, treatment alternatives to street crime [TASC], and many other law enforcement initiatives. While none of us wishes to return to the LEAA of old days gone by, I would hope that most of us would be able to support legislation that promotes the best of LEAA activities. There are 298 of us in the House that believe H.R. 4481 does just that.

The major feature of the Justice Assistance Act of 1981 is a block grant program for criminal justice funds. Under the bill, the modest block grant pool of about $150 million will be distributed to the States on the basis of population and crime rate. The bill would abolish the bureaucratic nightmare of LEAA and replace it with a lean and scaled-down operation that would not impose burdensome Federal paper-keeping requirements on State and local recipients.

The major features of the legislation include a requirement that the States provide a 50-percent match before they receive any Federal funds, the elimination of the federally required State planning agencies and councils, and a narrower focus for the grants.

The proposed Office of Justice Assistance [OJA] would have limited discretion under the bill; 80 percent of the money would be distributed directly to the States, with each State getting a minimum amount of $250,000 and the remainder to be distributed one-half on the basis of population and one-half on the basis of the State's crime rate.

There are 13 permissible categories of criminal justice programs which can be funded under the Justice Assistance Act of 1981. The 13 programmatic areas generally reflect those projects that have a proven record of effectiveness. Among the permissible categories are the following: Community and police anticrime programs; sting operations; arson programs; white collar crime and organized crime programs; career criminal programs; victim/witness programs; treatment alternatives to street crime [TASC]; and prosecutor and police management information systems.

These program categories were chosen by the committee because they have been positively evaluated and have had the support of the law enforcement community. In addition, a State may use up to 10 percent of its criminal justice grant for innovative or new criminal justice programs which address crime issues.

In addition to the block grant programs which are provided for in section 401 of the legislation, 20 percent of the funds are reserved for discretionary grants at the Federal level. Under the bill, the committee recognized that in order to move some new and worthwhile programs from the research to the implementation state, some Federal money had to be made available for new programs. Under the bill, 10 percent of the total appropriation is authorized to be expended for innovative programs. Also, under this section, the Director of the Office of Justice Assistance is authorized to spend up to 10 percent of the appropriated funds for either: (1) programs of the type which are fundable at the State level, but which are national or multi-State in scope; or (2) programs which are designed to provide technical assistance or training to criminal justice personnel.

The bill also provides for emergency grants to States and units of local government experiencing criminal justice crisis conditions. A recent example of the need for such law enforcement assistance, similar to Federal assistance in natural disasters, is the investigation of the Atlanta child murders.

I might say that Atlanta's request for assistance bounced around for 2 months from desk to desk before the Federal Government could respond. And then the President had to tap some HUD funds, because there were no other funds available for Federal response to Atlanta's reasonable and urgent request.

H.R. 4481 was approved by the House of Representatives on February 10 by a vote of 289-73 with broad bipartisan backing. The bill is the product of months of hearings and hard work by the members of the Subcommittee on Crime. Testimony was taken from representatives of all sectors of the criminal justice system: police, prosecutors, judges, and corrections officials. H.R. 4481 also has the strong support of the National District Attorneys Association, the National Association of Attorneys General, The International Association of Chiefs of Police, the Police Foundation, the American Bar Association, and the American Correctional Association.

Additionally, the legislation is in line with a recommendation of the Attorney General's task force on violent crime. While suggesting no precise dollar amount, the final report of the report of the task force urges that:

> Federal funds should be made available to State and local governments to implement those programs that have been demonstrated and proven to be effective through rigorous independent evaluation.

Under such circumstances, it is hard to see why the administration, which has expressed many times its deep concern with rising crime, cannot support a bill which provides such a modest amount of Federal dollars in comparison to past LEAA experience, and which was recommended by its own task force on violent crime.

I might say, in conclusion, that our subcommittee, which has as its ranking minority member Harold Sawyer, has developed, I think, a very well-balanced bill.

I know that you have some concerns about the block grant approach. I must concede that I did, too, at first. But upon closer examination I was surprised to find out how many jurisdictions around this country are not really implementing programs that have worked.

How many of the jurisdictions are aware of the many successes of PROMIS—prosecuter management information system—for instance? I think it is important for the Federal Government to say to these municipalities, "Hey, look, here is something that has worked here, and we think it is important for you to try it," and make sure they are going to try it and implement it properly.

We are telling the States that they have to put up 50 percent in hard cash to do it, so we think we have the best of all worlds, a balanced bill that provides technical assistance, a carrot that will encourage them to try programs that have worked, but with a 4-year phaseout of Federal funds.

It is not an open ended thing. We're requiring the States to pick up the tab for these programs in 4 years, something we haven't done before. We're also creating a mechanism that directs our action to those crises in the criminal justice community that we can readily respond to.

Let me just say that the ranking minority member of the Judiciary Committee, Robert McClory, who probably has been the leader in, I know, at least five Congresses, probably more than that, is trying to develop this leadership role, and I am just delighted Bob was on this bill. Unfortunately he doesn't serve on the crime subcommittee—it is my loss. I wish he did.

I am just delighted that your committee is moving ahead with some legislation in this most important area.

Thank you very much.

Senator SPECTER. Thank you, Congressman Hughes.

I do have some questions, but I think it might be most appropriate to proceed with Congressman McClory first, and direct my questions to the two of you.

Bob McClory, as you have already noted, has a unique and outstanding record in the Congress for the past 20 years, having been elected in 1962, and it is with sadness that we note his decision not to stand for reelection because he has been a tower of strength in the Congress, generally, and especially on the Judiciary Committee, succeeding to the position of ranking member, and with his usual energy is here today to assist on a matter which might not customarily command the attention of the ranking member, but might be left to the subcommittee chairman.

I noted his presence in the Judiciary Committee meeting with the Chief Justice in Williamsburg in February, and his participation in Tidewater last weekend. Wherever there is a matter of importance, Congressman McClory is there, lending his experience. We are very grateful to you, Bob, for coming here this morning to give us your views on these very important issues.

STATEMENT OF HON. ROBERT McCLORY, RANKING MINORITY MEMBER OF THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES

Representative McCLORY. Thank you very much, Senator.

I might say that I am reluctant to go. I sometimes say facetiously that if I had known how generous people's remarks were going to be about my career at this stage, why, I might have considered otherwise.

But let me just say this, Senator, that I first of all want to express my respect for you and commend you on your leadership in the entire area of anticrime legislative initiatives on this side of the Capitol. I want to commend you on the programs that you are supporting, including the assistance program we are discussing today, which relate to this extremely serious problem of crime in America.

I also want to say that I am delighted to appear before the subcommittee today in the company of my distinguished colleague from New Jersey, Bill Hughes, who is chairman of the Subcommittee on Crime, and the principal sponsor of the legislation about which we are having testimony here this morning. He is a definite leader in the Congress on behalf of improved laws to fight crime where it exists throughout our Nation.

In a sense, this legislation reauthorizes a Federal role with regard to law enforcement, specifically the law enforcement assistance program for the States and localities which we have had in place since 1968.

This has been one of my primary interests during my congressional career, and its continuation is absolutely imperative, in my view.

I was present at the creation of the LEAA and gave my vigorous support to the broad range of criminal justice programs contained in the Omnibus Crime Control and Safe Streets Act of 1968. When that measure was considered on the floor of the House during the summer of 1967, I offered an amendment which established the National Institute of Law Enforcement and Criminal Justice, the forerunner of the existing NIJ, which is the research arm in the area of crime, similar to our science and health research facilities. It seemed then, and it seems now, entirely appropriate that we should have this research capability at the Federal level if we are going to demonstrate the kind of leadership, guidance, and direction which are an important, vital Federal responsibilies.

During the decade or so during which the LEAA operated at full capacity, I was frequently contacted by neighborhood groups, nonprofit organizations, business people, and law enforcement officers, praising the programs funded with its grants. They were unanimous on two points—first, that the programs were of inestimable benefit, and second, that the programs would not have been possible without the seed money provided by the Federal Government. LEAA programs provided the impetus for Government and private concerns to coordinate their responses to crime and to get together to respond to the problems of crime in the area where it exists, primarily at the neighborhood and the community levels.

The programs which the LEAA funded are legendary. In my own district, for instance, programs establishing prosecutorial management information systems to expedite caseload processing, reforms in education and job training in correctional facilities, improvement in police communications systems, halfway houses, and computerization of court records were established with LEAA funds. In Kane County alone, LEAA grants brought various community groups together to assist senior citizens, provide counseling on child abuse and rape, and run a drug detection system. In addition, programs in the planning stages included involving law student assistance for judges, arson investigation, and the upgrading of certain correctional facilities. Regrettably, the termination of the LEAA will preclude some other communities from enjoying the same benefits. However, I think the important amendments which we enacted in 1979 to provide basically for the monitoring and evaluation of successful programs and to make available to communities throughout the country those programs which have been proven to be successful so that they can be utilized nationwide.

Although the LEAA grant program was terminated almost 18 months ago, I continue to be amazed by the method which was used. Over the repeated protests of Judiciary Committee members, the LEAA was extinguished by a hurried and haphazard cutoff of appropriations. This occurred despite the fact that, only months before, after arduous deliberation, both the House and the Senate had approved revitalizing legislation to extend its authorization through fiscal year 1983. Unfortunately, that legislation, the Justice System Improvement Act of 1979, was never fully tested in practice.

Mr. Chairman, the silver lining in this cloud is that LEAA's demise has given us the impetus once again to make improvements in the authorizing legislation. When the House Subcommittee on Crime began its investigation last spring, I had the privilege of testifying to the urgent need for continued criminal justice assistance. I am happy to say that the product of the subcommittee's deliberations was a bill containing such vital improvements that it generated substantial support on both sides of the aisle. At the same time, the modest funding levels acknowledge the need to reduce Federal spending and the budget deficit.

Mr. Chairman, the chairman of the subcommittee has given us a detailed explanation of the provisions of H.R. 4481. I would like to draw this subcommittee's attention to several provisions which I successfully offered as amendments in committee and on the floor.

First and foremost, Mr. Chairman, considering the fact that we are almost halfway through fiscal year 1982, I believe that any legislation in this area should extend the authorization for assistance at least through fiscal year 1984. My amendment, which was approved by the House, accomplishes just that.

Second, while H.R. 4481 would abolish the Office of Justice Assistance, Research and Statistics in an effort to minimize administrative machinery on the Federal level, we must retain some sort of coordinating function between the various agencies involved in this area. Thus, my amendment, which was adopted by the full committee, permits the new Office of Justice Assistance to provide staff support to, and to assist in coordinating the activities of, the

National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention.

Third, since one of the methods used by the foes of LEAA to achieve its destruction was the reprograming device, the full committee approved my amendment to prohibit the reprograming of grant funds to other functions.

Finally, on the floor, at the suggestion of the administration, I offered an amendment to permit jurisdictions which do not participate in the formula grant program by providing matching funds to receive technical assistance under the discretionary grant program. This has been one of the most valuable contributions of LEAA, and I believe it should be available to all jurisdictions.

Mr. Chairman, I want to commend you for initiating deliberations in this body on the important issue of Federal criminal justice assistance. In view of the current crime situation, it would be pennywise and pound foolish for the Federal Government to ignore the urgent needs of the States and localities in this area.

I might say, while the administration's principal objections to this bill came from OMB, except for some constructive suggestions the Justice Department was virtually silent with regard to the legislative action which we took in the House.

The chairman and ranking minority member of the subcommittee, Messrs. Hughes and Sawyer, deserve high praise for their diligent efforts in producing H.R. 4481. I hope that the Senate will also move quickly so that we can have a program in place for fiscal year 1983.

Thank you.

Senator SPECTER. Thank you, Congressman McClory.

I agree totally with the necessity to move promptly on these ventures.

The bill passed through the House on February 10. As soon as it did, we took steps to schedule this hearing. Too often these matters languish without receiving attention on a prompt basis, and I am delighted to see the kind of bipartisan support which is represented by the presence of both of you Congressmen here today, one on each side of the political aisle, and the vote of 189 to 73 is certainly a strong testimonial to the very solid support which the measure had in the House.

One of the critical aspects of the consideration of any measure is the cost factor. That is what we are confronted with at every turn, and I know that when this matter reaches the full Judiciary Committee, it will be closely scrutinized. I would like to have your comments, starting with you, Congressman Hughes, as to what the projections are as to cost.

Representative HUGHES. Well, we estimate that the cost would be a total of $170 million which we think is rather modest when you consider that the last authorization for a criminal assistance initiative of this nature was something like $750 million.

Representative MCCLORY. If I may be permitted to interrupt, that authorization is still in place. So, the $170 million we authorize in this substitute legislation is a big reduction from what is currently authorized.

Senator SPECTER. I personally share your view that the fight against violent crime and assistance to local law enforcement is a very high priority item. When we talk about the cost-benefit ratio, Congressman McClory pointed to this bill as being directed to the programs which have been proved to be successful.

Could you itemize those specific programs and your understanding of their operation in terms of success which would bolster our effort to get this through the committee in the Senate?

Representative HUGHES. I have already mentioned some programs which I know you are familiar with, Senator, because I know in Philadelphia you used many of these, such as the arson and career criminal programs, very successfully.

They were developed under your leadership during the years you were the district attorney in Philadelphia.

Also, the community and police anticrime programs which I know Philadelphia implemented have been inordinately successful, as was promised, and the TASC operations were so effective that they escaped the last round of budget cuts and were funded to the tune of about $4 million, as I recall, in our reconciliation bill in the first session of the 97th Congress.

In addition, the victim/witness, and the white collar and organized crime programs have been very, very successful around the country. The development of alternatives to institutionalization has also been very successful.

I will have to tell you that we don't have the dollars to assist States and local communities in solving the serious prison overcrowding problems which have developed around the country. Yet we all know that we haven't done a very good job of managing our very limited resources. We are going to have to do a better job of screening prisoners in and out of institutions. To do that, we need programs for States and, as Bob McClory said, we need seed money.

We are not talking about a lot of money spread around the country, but I think that $170 million is a significant amount, and in these austere times, it is something to be concerned about.

As you well know, communities are up to their eyeballs in crime problems. We are all uncomfortable with the status quo: Many municipalities are not getting resources, they need to do a decent job.

They are, therefore, often unwilling to try new programs, and therein lies the Federal leadership role. That is why I became persuaded by the block grant approach, and agreed that it was important.

I heard more and more criticism about the overspending, throwing dollars at programs that never worked, and H.R. 4481 responds to that by picking up programs that have been successful and making them a major feature of the bill so that we can say to other municipalities, "Hey, this worked over here, you ought to try it because we think it will help you, too."

Senator SPECTER. Congressman Hughes, you were prosecuting attorney, of course, in Cape May County at a time when LEAA was in operation.

From your own experience, were there programs which affected the prosecution procedures in your county which were useful to you?

Representative HUGHES. Yes; there were.

There were abuses, in all candor, in the area of hardware. So many municipalities applied for things they really didn't need, but they were free dollars.

I think that the criticism that has been directed at LEAA focused primarily on hardware.

But we used a lot of programs that were very successful.

Senator SPECTER. Which ones?

Representative HUGHES. Career criminal was very successful, as it enabled us to target our resources in on those we knew had committed a lot of crime.

Senator SPECTER. What was the total population of Cape May County when you were prosecutor?

Representative HUGHES. About 60,000.

As you know, Senator, in my own home city of Ocean City, we have 150,000 Philadelphians on a weekend.

Senator SPECTER. 60,000 in the winter and how many in the summer?

Representative HUGHES. We probably—I am going to give you my best guesstimate, we would probably range upward of perhaps as many as 5 to 7 million.

Senator SPECTER. Philadelphia exported not only tourists, but a fair number of burglars?

Representative HUGHES. Yes; we appreciate the money you spent. We didn't appreciate the burglars you sent us.

Senator SPECTER. You couldn't cut them off on the county line, Congressman Hughes.

Representative HUGHES. That is for sure.

Senator SPECTER. You say you voted against LEAA.

Why?

Representative HUGHES. Because I felt that it was not oversighted. I came to the Congress and went on the subcomittee as a freshman. And, in fact, Bob McClory was on the subcommittee at that time, and during that entire term we never really looked at LEAA and during the entire time that the Subcommittee on Crime had LEAA, we did very little in oversighting the program.

And I became frustrated with our inability to really focus in on what were becoming the abuses of LEAA.

I had meetings with some of the people that were running the LEAA, and after they left my office, I became more convinced than ever that it was time to make major changes in LEAA. I just didn't feel we had control over spending. It didn't mean good things didn't come out of LEAA.

We spent roughly $7 or $8 billion in LEAA, which is a lot of money. But when you consider the magnitude of the crime problems, it wasn't a lot of money. I would have hoped, however, that we learned our lesson in trying to focus, as we are trying to do in this legislation, our efforts in an area that will be productive.

In addition to the block grant program, there is a program, a discretionary program, that will enable us to take the research coming out of the National Institute of Justice and other nonprofit and other organizations, and test them in the marketplace. You got to have a discretionary program to try new ideas and add those successful programs to the lists of the categories that are successful, and we think we have done that.

Senator SPECTER. I would like to turn, for just a moment or two, to the subject which will be on the agenda for other witnesses who are appearing here, and that is the Career Criminal Act as it relates to the LEAA application.

You mentioned the career criminal work which was successful under LEAA. Congressman Hughes, to what extent did you use LEAA moneys, if at all, to target on career criminals when you were prosecuting attorney in Cape May County?

Representative HUGHES. We used it fairly successfully in the last few years of our administration.

Senator SPECTER. How well did it work in your county?

Representative HUGHES. It worked very, very well. The idea of trying to identify those people that are committing an inordinate number of crimes, that is, in most crime categories, whether you're talking about drug related offenders, whether you are talking about juvenile offenders, it is often a very few people that are committing a lot of crimes.

If you can track those individuals and pay particular attention to them, move them along the process, try to keep up with their movements, you are going to do a better job of reducing the incidence of crime within that category.

So we did, in the last 2 or 3 years of the administration I served in, use the career criminal programs pretty effectively.

Senator SPECTER. Do you have a habitual criminal statute in New Jersey?

Representative HUGHES. Yes; we do.

Senator SPECTER. What does it provide, a life sentence after——

Representative HUGHES. I think it is the third offense.

Senator SPECTER. Was that used to any extent?

Representative HUGHES. We used it with increasing frequency in the last few years of the administration.

Senator SPECTER. Well, we had no success.

In fact, we had just absolutely no success which provided for a life sentence on a fourth offense of a category of crime and you and I know, you know from our private conversations of the frustration which I felt as a prosecuting attorney, on the sentencing issue.

And we are going to hear today from Ed Rendell who is with us on the more recent experience in Philadelphia, and we are also going to hear from David Armstrong, Commonwealth attorney for Louisville, and we have heard from District Attorney Hayland of Detroit and the district attorney from Boston, Mass., on the difficulties which were faced by the big city prosecutors of bringing cases to trial fast enough and on getting sufficient sentences, and there may be a real distinction between the experiences of prosecutors in counties besides Cape May County, where except for summer weekends where we flood you with Philadelphia burglars and robbers and your ability to cope with that kind of a problem.

And that has led to initiation of career criminals statute which is pending in the Senate today where I have come to talk to Chairman Rodino and ranking Member McClory, and also to you, Congressman Hughes, as the chairman of the appropriate subcommittee, and ranking Member Sawyer in an effort to discuss the matter and lay the groundwork and have kind of an exchange which will try to move to unified action by the House and by the Senate, because neither of us can do the job alone, and neither of us can do it together unless we have the cooperation of the administration, and Assistant Attorney General Lowell Jensen, who was going to testify about administration support for S. 1688.

One of the issues which has been very troublesome and really the heart of the problem turns on our ability to formulate a program which leaves local autonomy in the vast majority of cases and I know that that has been a concern of yours and as it is a concern of mine, we do not want to thrust the Federal prosecutor onto the local prosecutor in cases where the local prosecutor can handle them.

And what we are trying to do is supplement and have a category of assistance where resources are not sufficient or patterns of sentencing are insufficient because of difficulties which exist in some cities, which have been put on the record, and my experience in Philadelphia was a horrendous one in terms of the sentencing which was present from 1966 to 1974.

The language which we have finally come up with which has been in the state of flux and in the state of discussion now boils down to this, Congressmen Hughes and McClory,

> If after full consultation between the local prosecuting attorney and the appropriate Federal prosecuting attorney, either the local prosecuting attorney requests or concurs in the Federal prosecution, and the Attorney General finds such prosecution practicable, or the Attorney General, Deputy Attorney General, Associate Attorney General, or designated Assistant Attorney General determines that Federal prosecution is necessary to vindicate a significant Federal interest, then Federal prosecution may be initiated under this Act.

It shows you would have no difficulty if the local prosecuting attorney makes the request or concurs in the initiation of Federal prosecution.

Representative HUGHES. Let me just say, I think your legislation S. 1688 is a very serious initiative and I must confess, it has a lot of aspects that I like.

I think the language you just read tightens it up considerably.

One of my concerns, as you have probably observed, is over the role of the local prosecutor who has primary jurisdiction over street and violent crime.

But I have some other concerns which I know you share.

For instance, right now, in southern Florida, we have a rural declination policy on drug abuses. If it is not 2 tons of marihuana, we decline jurisdiction and send it to the State; 2 tons. I mean, my own jurisdiction, they get upset over a pound of marihuana. Because we don't have resources in southern Florida, our U.S. attorney declines and sends it to the State attorney.

We don't have resources. We are overcrowded right now. We are sending Federal prisoners to State institutions because in some areas we are presently overcrowded. So I'm concerned about the resources of the declination policy and the fact that bank robberies are not uniform.

Hopefully, with the new coordinating counsel, and new policies being developed, we will see some degree of uniformity. In some areas we have recently been declining 90 percent of our bank robbery cases to local jurisdictions that are already overcrowded.

Representative McClory. Mr. Chairman, the House is in session, and there is a rollcall vote going on right now.

Senator Specter. Congressman, that takes precedence over everything.

Representative Hughes. I commend you for S. 1688. I am happy to see you moving forward with it. It has a lot of aspects I find very attractive.

Senator Specter. I share your concern about the availability of resources and about the declination process. We know from our experience as prosecuting attorneys, it is a discretionary judgment and has to be exercised on as a matter on the local level.

We are going to continue these discussions.

I am glad we got 45 minutes of your time here this morning before you got a rollcall vote.

Your testimony has been very useful, and I say to you that the subcommittee is going to move ahead with H.R. 4481, and do our utmost to bring it before the full committee at the earliest stage, and I have concerns as to the reactions of my colleagues as to its cost.

That has been the enormous stumbling block. I share your evaluation of a high priority for this kind of legislation.

Representative Hughes. Thank you.

Representative McClory. Thank you.

Senator Specter. Let's next call the Assistant Attorney General of the Criminal Division of the U.S. Department of Justice, the Honorable Lowell Jensen.

We welcome you here again today. We very much appreciate the extensive interchange between your Department and our committee.

Again, as one former prosecutor to another, your jurisdiction on the West and my jurisdiction on the East having had many similarities, I am delighted to see a man of your experience and ability in that position.

It is good for the country and it is a pleasure to work with you and we welcome you here today, and your testimony about S. 1688, and perhaps if you care to do so, to offer any observations which you may want to make as to the testimony from Congressman Hughes and Congressman McClory.

STATEMENT OF HON. D. LOWELL JENSEN, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. Jensen. I appreciate those kind remarks, Mr. Chairman, and the opportunity to be here to participate in this discussion. I appreciated the opportunity to serve as a local prosecutor and to get that experience, and am grateful now to have the opportunity to utilize that law enforcement experience in the formulation of effective national laws.

I am pleased to be here now and to have this opportunity to work with your staff on the drafting and formulation of S. 1688.

I have a prepared statement I would like to introduce into the record, and I would also like to make a few additional comments.

Senator Specter. We did receive it, and it will be made a part of the permanent record, and you may exercise your discretion.

Mr. **Jensen**. I would like to read some portions of my prepared statement, and then I would like to make some additional comments.

As you recall, we had an opportunity to appear here before. I expressed the Department's affirmation of the concepts that were involved in S. 1688. At that point, we were not able to express a direct opinion on the bill itself. I am very happy this morning to say that after those concepts have been worked over, that I am pleased to advise you that the Department of Justice supports S. 1688 in its form now.

S. 1688 would in limited circumstances provide Federal jurisdiction for the prosecution of persons charged with armed robbery or armed burglary where the defendant has two prior burglaries or robbery convictions.

The proposed legislation involves a number of significant features designed to deal with the problem of a recidivist offender; the bill provides that defendants convicted under this provision are subject to a term of imprisonment of 15 years to life, without the benefit of probation, parole, or a suspended sentence.

The bill also incorporates the more restrictive bail standards of 18 U.S.C. 3148. The legislation expresses the importance of an expeditious resolution of these criminal cases, and it addresses the important question of concurrent Federal-State jurisdiction resulting from this bill.

Each of these features of the bill is discussed more fully below.

The Department of Justice is committed to doing a more effective job of combating violent crime in the Nation. This legislative proposal is intended to assist the national effort to combat the rising incidence of violent crime. It recognizes the need to deal swiftly and effectively with those offenders who habitually prey upon the property and safety of innocent victims, and it recognizes the impact which unchecked violent crime has on the social and economic fabric of the entire Nation.

S. 1688 is designed to strike at the heart of violent crime, the recidivist. Studies consistently have underscored the fact that a small percentage of repeat offenders are responsible for an extraordinarily disproportionate percentage of robberies and burglaries.

It is our view that this bill appropriately focuses on the critical problem of repeat offenders who use a firearm in the commission of yet another robbery or burglary.

The provisions of S. 1688 are directed at those recidivists who already have been convicted of two felony burglaries/robberies, and who by engaging in the commission of a third violent offense have demonstrated their incorrigibility and continuing danger to our society.

Since I have previously testified, we have had an opportunity to analyze more thoroughly the constitutional underpinnings of this proposed legislation. It is the Department's view that S. 1688 would pass constitutional muster.

I specifically refer to the commerce clause, and the court interpretation of Congress authority to regulate interstate transactions in firearms with which you are familiar. In the cases that have dealt with the power of Congress under the commerce clause to enact statutes which prohibit felons from possessing firearms, the courts have uniformly upheld those statutes.

The reasoning of these cases applies equally to the use of a firearm in the commission of an offense as addressed by this bill.

With respect to the sentencing provisions of S. 1688, we support the concept of enhanced penalties for career criminals. A mandatory minimum penalty of no less than 15 years imprisonment and up to life for persons who have demonstrated repeatedly that they are a violent threat is one way of insuring the safety of our communities and curtailing the disproportionate number of offenses committed by career criminals.

Furthermore, the determinative penalty provision of the bill sharply curtails the latitude of judicial discretion in sentencing repeat violent offenders. The sentencing provision of the proposed legislation is also consistent with the mandatory sentencing recommendations of the Attorney General's task force on violent crime.

The battle against violent crime is one of the top priorities of the Department of Justice. We believe this legislation targets a critical area of the violent crime problem and facilitates a concrete Federal participation in attacking that problem with a limited expenditure of additional resources.

We do not anticipate significant additional expenditures for investigation and prosecution of the limited class of offenders targeted by this bill, nor do we expect that the limited additional Federal prison population resulting from prosecution under this provision will impose an undue hardship.

We recognize, I may add, at this point, that you must approach the problem of resources and funding with clear eyes. There is an impact upon the correctional system by this bill. We have to look at that and make sure that it is an appropriate impact. Nonetheless, we do not anticipate that it would be an undue impact.

We will need to look at that over a period of time as this bill is implemented.

We are sensitive to the issues of federalism inherent in this bill, and we do not view this legislation as an invitation to intrude into those areas of law enforcement which State and local authorities traditionally have prosecuted.

We recognize fully that the local authorities have the responsibility, and the power, and the commitment to direct prosecutions of violent offenses. This bill, however, provides an important complement to that. And we see this bill as a tremendously important complement to the responsibilities of the local prosecutors.

S. 1688 recognizes the importance of Federal-State law enforcement coordination in prosecuting violent crime as well as the principal role State law enforcement authorities traditionally have played in this area. The language of the bill expresses the intent of Congress that ordinarily the Federal prosecutor should defer to State prosecution of armed robberies and armed burglaries which are within otherwise exclusive State jurisdictions.

However, where, after consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, either the local prosecutor requests or agrees to Federal prosecution and the Attorney General finds that such a prosecution is practicable, or the Attorney General or a designated Assistant Attorney General determines that Federal prosecution is necessary to vindicate a significant Federal interest, then a case may be brought under this act.

Indeed, the cooperative Federal-State effort contemplated by this bill is consistent with the recommendations of the Attorney General's task force on violent crime. The task force emphasized that one significant way of improving the attack on crime is by facilitating coordination and cooperation among local, State, and Federal law enforcement efforts.

In particular, the task force recommended the establishment of law enforcement coordinating committees to implement concurrent jurisdiction areas. That effort is underway. To date, more than 50 U.S. attorneys throughout this country have had initial meetings of law enforcement coordinating committees with very positive results; they would look forward to the implementation of statutes such as this.

In sum, we believe S. 1688 addresses the serious problem of repeat offenders, facilitates a concrete Federal contribution without the expenditure of significant additional resources, provides for necessary cooperation between Federal and local law enforcement authorities to insure that prosecution of career criminals is handled effectively and swiftly, and insures that those career criminals who use firearms to commit another robbery or burglary receive the necessary incarceration to provide for the safety of our communities.

I would be happy to answer any questions.

Senator SPECTER. I am very pleased, Mr. Jensen, to hear you now have 50 coordinating counsels.

Do most of those exist in most of the big cities and beyond?

Mr. JENSEN. They are spread throughout large and small jurisdictions throughout the country. Of course, they are planned to be set up by the U.S. attorneys across the entire country. For your information, Philadelphia's law enforcement coordinating committee is set up and working in that area.

Senator SPECTER. What is an illustrative smaller city, Wichita, Kans.?

Mr. JENSEN. I attended a meeting in Montgomery, Ala. I attended one in Little Rock, Ark., and in Wilmington, Del.; all of those middle and smaller range areas are also putting together law enforcement coordinating committees.

Senator SPECTER. That is enormously impressive.

It may well be that with the enactment of S. 1688, if it does go through, this would be a good subject for a coordinating counsel to choose a test case or two, and then the career criminals wouldn't know which were going to go to the Federal court, and which weren't. And there are, I think, substantial deterrents. My experience has shown that these career criminals are very thoughtful, that they do not carry weapons because they are fearful of using the weapon in the course of a robbery, or burglary, which may result in a first degree murder charge.

They make that calculation with care and they would be much more worried about a prosecution in a Federal court than in many State courts.

If one or two cases were chosen by coordinating counsels in 50 communities, I think it might have a very substantial deterrent and therapeutic effect on the community.

Mr. **Jensen**. I agree with you, Mr. Chairman.

The legislation, as I say, is sensitive to the issue of federalism. Since there is an ongoing cooperative look at concurrent jurisdiction, we should be able effectively to address this in a partnership.

Senator **Specter**. On a related subject, the issue of resources is always a very difficult one. The Justice Department was compelled, as a good team player, to come in with reduced budget requests, and Attorney General Smith has done that.

Within the confines of the support of the administration's policies on economizing, how is your unit faring in the Department of Justice?

Do you have sufficient resources to carry out your job?

Mr. **Jensen**. As you know, we are going through the process of appropriation hearings in that specific area whether or not there are adequate resources. As you may know, we have been afforded a continuation of resources in the next budget so that we are really not facing cutbacks in the law enforcement area, particularly in my Division, the Criminal Division. We are not facing the reduction of attorneys and complementary resources, so I think we are in the position to address problems of enforcement adequately.

Senator **Specter**. There was a cut, though, from 1981 to 1982?

Mr. **Jensen**. There was.

Senator **Specter**. How have you assimilated that?

Mr. **Jensen**. I think that cut has been assimilated effectively. I don't think we have found ourselves in a situation where we are not able to address tasks that we have.

Senator **Specter**. Are you in a position to make any comment as to what Congressman Hughes said about the problems in south Florida or other similar problems, which the Justice Department faces generally and doesn't have resources to handle?

Mr. **Jensen**. In a very general sense, I think I can relate that to the necessity for coordinated efforts. As you know, a new U.S. attorney has been designated in south Florida, and is about to move into position. The LECC coordinating efforts will take place upon his appointment to office.

What the south Florida experience points up is that when you look at the problem of coordination, you have to look at it in a local perspective. You cannot simply say the problems are the same around this country.

When we have a problem of the dimensions which exist in south Florida, one must approach it with a coordinated kind of perspective. That is the way we are approaching it from the perspective of the Federal investigative and prosecutive efforts. For example, Congressman Hughes mentioned declination policy.

None of those declination policies will remain as simply rigid statements. They are all to be looked at by the coordinating committees so we can make an assessment of those local and Federal prosecutions.

That is going on in south Florida and will continue.

Senator **Specter**. So you do not expect a declination policy on 2 tons of marihuana to prevail?

Mr. JENSEN. No, not at all. I expect all of those policies will be looked at from the perspective of local enforcement and Federal enforcement.

Some of those policies that come about in fact are unilateral kinds of things; the coordinating committees say that will simply not happen in the future.

If there is going to be any sharing of resources, it is not going to depend upon a unilateral declination policy. It is going to come about by agreement in terms of how resources can most effectively be used. You may very well have some cases that would be possession cases, which are prosecuted locally. You may have some that are prosecuted federally. Those decisions will be based on a participatory decision rather than on some kind of declination policy arrived at bureaucratically.

Senator SPECTER. Thank you very much, Mr. Jensen.

I want to express to you the appreciation of the subcommittee and my personal appreciation for all the time and effort you have given to this matter.

S. 1688 was introduced on October 1, and we waited until the budget tax programs were in place before moving in this direction. It coincided with President Reagan turning his attention to the crime problem in September. We then had a meeting with the President, the Attorney General, and Edwin Meese, Counselor to the President, in mid-November, and it has been a matter of working out the specifics and I am very pleased that we have had the cooperation from you personally, and the Office of Management and Budget, and from Mr. Meese's office, to be able to bring this matter to a conclusion and to have the administration support, because that is a critical aspect of getting approval through the Senate. As I have already said, we have started the task of the negotiations with Chairman Rodino and Chairman Hughes, of the subcommittee, and the ranking members, McClory and Sawyer, and we intend to push the matter forward because there is a lot of sentiment that this Federal action on these street crimes, to a limited extent, could have a very significant impact on the problem of violent crime. I, for one, continue to believe that the objectives stated by the National Commission in 1973 of reducing violent crime by 50 percent is attainable if our resources are directed in an efficient manner.

Mr. JENSEN. I appreciate the opportunity to work on the bill. From the Department's standpoint, we see this as an important kind of legislative response to the task force. We see it as an important bill, Senator, and appreciate the opportunity to work with you and your staff on it.

[The prepared statement of Mr. Jensen follows:]

PREPARED STATEMENT OF D. LOWELL JENSEN

Mr. Chairman:

I am pleased for the opportunity to appear before the Subcommittee to discuss S. 1688, the Armed Career Criminal Act of 1982. In October when I appeared before the Subcommittee to testify regarding S. 1688, the Department of Justice had not had an opportunity to review thoroughly the operation and the impact of the proposed legislation, but I indicated we supported many of the conceptual ideas encompassed in the bill. Today, I am pleased to advise you that after further analysis of the proposed Act, the Department of Justice supports S. 1688.

As proposed, S. 1688 would in limited circumstances provide federal jurisdiction for the prosecution of persons charged with armed robbery or armed burglary where the defendant has two prior burglary or robbery convictions. The proposed legislation involves a number of significant features designed to deal with the problem of the recidivist offender. The bill provides that defendants convicted under this provision are subject to a term of imprisonment of fifteen years to life without the benefit of probation, parole, or a suspended sentence. The bill also incorporates the more restrictive bail standards of 18 U.S.C. 3148. The legislation expresses the importance of an expeditious resolution of these criminal cases, and it addresses the important question of concurrent federal-state jurisdiction resulting from this bill. Each of these features of the bill is discussed more fully below.

The Department of Justice is committed to doing a more effective job in combatting violent crime in the nation. This legislative proposal is intended to assist the national effort to combat the rising incidence of violent crime. It recognizes the need to deal swiftly and effectively with those offenders who habitually prey upon the property and safety of innocent victims, and it recognizes the impact which unchecked violent crime has upon the social and economic fabric of the entire nation.

S. 1688 is designed to strike at the heart of violent crime, the recidivist. Studies consistently have underscored the fact that a small percentage of repeat offenders are responsible for an extraordinarily disproportionate percentage of robberies and burglaries. It is our view that the bill appropriately focuses on the critical problem of the repeat offender who uses a firearm in the commission of yet another robbery or burglary. The provisions of S. 1688 are directed at those recidivists who already have been convicted of two felony burglary/robbery offenses and who by engaging in the commission of a third violent offense have demonstrated their incorrigibility and continuing danger to our society.

Since I previously testified, we have had an opportunity to analyze more thoroughly the constitutional underpinnings of this proposed legislation. It is the Department's view that S. 1688 would pass constitutional muster. Under the Commerce Clause, Congress has the power to regulate even purely intrastate activity where that activity "combined with like conduct by others similarly situated, affects commerce among the states . . . ." _See_, _e.g._, _National League of Cities_ v. _Usery_, 426 U.S. 833, 840 (1976).

Specifically, the courts have sustained Congress' authority to regulate intrastate transactions in firearms, _see_ 18 U.S.C. §§ 921-928, on the theory that such transactions affect interstate commerce. _See_ _Huddleston_ v. _United States_, 415 U.S. 814 (1974). Moreover, cases that have dealt with the power of Congress under the Commerce Clause to enact statutes prohibiting convicted felons from possessing firearms (_see_ 18 U.S.C. App. § 1202) have uniformly upheld such a power. _See_ _Stevens_ v. _United States_, 440 F.2d 144 (6th Cir. 1971); _United States_ v. _Burton_, 475 F.2d 469 (8th Cir.), cert. denied, 414 U.S. 835 (1973); United States v. Weatherford, 471 F.2d 47 (7th Cir.), cert. denied, 411 U.S. 972 (1973); see also, United States v. Bass, 404 U.S. 336 (1971). The rationale supporting these firearms statutes applies equally to the use of a firearm in the commission of an offense as addressed by this bill.

With repect to the sentencing provisions of S. 1688, we support the concept of enhanced penalties for career criminals. The proposed Act provides a mandatory minimum penalty of no less than fifteen years imprisonment and up to life. Substantial periods of incarceration for persons who have demonstrated repeatedly that they are a violent threat is one way of ensuring the safety of our communities and curtailing the disproportionate number of offenses committed by career criminals. Furthermore, the determinative penalty provision of the bill sharply curtails the latitude of judicial discretion in sentencing repeat violent offenders. The sentencing provision of the proposed legislation is consistent with the mandatory sentence recommendations of the Attorney General's Task Force on Violent Crime. The effectiveness of the sentencing provision is underscored by the bill's prohibition against suspended sentences, probation, and parole. Defendants convicted under this Act will have to serve at least fifteen years in prison and will be ineligible for probation or parole.

The battle against violent crime is one of the top priorities of the Department of Justice. We believe this legislation targets a critical area of the violent crime problem and facilitates a concrete federal participation in attacking that problem with a limited expenditure of additional resources. We do not anticipate significant additional expenditures for investigation and prosecution of the limited class of offenders targeted by this bill, nor do we expect that the limited additional federal prison population resulting from prosecutions under this provision will impose an undue hardship. Although specific estimates are difficult to determine, it is our view that this is one of the most cost-effective means of making an impact on violent crime. The incapacitation of even a small number of recidivist robbers and burglars would save our communities millions of dollars.

We are sensitive to the issues of federalism inherent in this bill, and we do not view this legislation as an invitation to intrude into those areas of law enforcement which state and local authorities traditionally have prosecuted. Indeed, we anticipate that there will be a limited number of federal prosecutions under this Act. S. 1688 recognizes the importance of federal-state law enforcement coordination in prosecuting violent crime as well as the principal role state law enforcement authorities traditionally have played in this area. The language of the bill expresses the intent of Congress that ordinarily the federal prosecutor should defer to state prosecution of armed robberies and armed burglaries which are within otherwise exclusive state jurisdiction. However, where, after consultation between the local prosecuting authority and the appropriate federal prosecuting authority, either the local prosecutor requests or agrees to federal prosecution and the Attorney General finds that such a prosecution is practicable, or the Attorney General or a designated Assistant Attorney General determines that federal prosecution is necessary to vindicate a significant federal interest, then a case may be brought under this Act. It is our view that the consultation and cooperation between federal and state prosecutors contemplated by this bill will enhance the overall effectiveness of prosecutions of dangerous criminals and will ensure that repeat violent offenders will get the attention they need.

Indeed, the cooperative federal-state effort contemplated by this bill is consistent with the recommendations of the Attorney General's Task Force on Violent Crime. The Task Force emphasized that one significant way of improving the attack on crime is by facilitating coordination and cooperation among local, state, and federal law enforcement efforts. In particular the Task Force recommended the establishment of law enforcement coordinating committees (Recommendation 6) and the development of agreements between United States Attorneys and state/local prosecutors to provide for increased federal prosecutions of convicted felons apprehended in possession of a firearm (Recommendation 21). At the present time there has been significant progress in the development and implementation of the Law Enforcement Coordinating Committees. Those Committees can provide a forum to resolve issues of concurrent jurisdiction arising out of this legislation, and this bill will provide a legislative vehicle to accomplish some of the principal objectives of the increased federal-state cooperative effort.

In addition, the language of S. 1688 appropriately expresses the need for a speedy resolution of career criminal prosecutions and the expeditious determination of appeals. Lengthy delays in trials coupled with an interminable appeal process undercut the effectiveness of any law enforcement program and dissipate the deterrent impact which a speedy and resolute conviction can have on other criminal offenders. We anticipate that the Speedy Trial Act coupled with less crowded federal dockets will encourage a speedy resolution of those armed burglaries and armed robberies charged under the federal jurisdiction of this Act.

Finally, we support the bill's restrictive bail provision which applies the standards applicable to a person charged with a capital offense or a person pending appeal after conviction (18 U.S.C. § 3148). This would permit a court to consider danger to the community as well as risk of flight in setting bail, and to detain a defendant where an appropriate finding of such danger or risk is made. The more restrictive bail provision of S. 1688 is consistent with the Task Force Recommendation 38 and recognizes the reality that career criminals too often commit additional violent crimes while on release pending trial.

In sum, we believe that S. 1688 addresses the serious problem of repeat offenders, facilitates a concrete federal contribution with a limited expenditure of additional resources, provides for necessary cooperation between federal and local law enforcement authorities to ensure that the prosecution of career criminals is handled effectively and swiftly, and ensures that those career criminals who use a firearm to commit another robbery or burglary receive the necessary incarceration to provide for the safety of our communities.

I appreciate the opportunity to comment on this proposed legislation. I would be happy to answer your questions.

Senator SPECTER. Thank you very much.

Thank you for coming this morning.

We will take a 5-minute recess at this point.

[A short recess was taken.]

Senator SPECTER. We shall resume.

That is the longest break the subcommittee has ever taken because District Attorney Armstrong and District Attorney Rendell were reminiscing with Assistant Attorney General Jensen about prosecution days, and then Ed Rendell started to tell Dave Armstrong a story about Philadelphia District Attorney's Office.

Once those stories begin, it is very hard to terminate them.

That leads us to the next chapter in this hearing, the testimony of Hon. Edward Rendell, district attorney of Philadelphia, who has had an illustrious and distinguished career beginning with his summer clerkship in the Philadelphia District Attorney's Office, in the summer of 1966 when he reminded me, I hired him without pay, a factor that was corrected the next summer when he was paid, and then he came on fulltime and was an outstanding prosecutor, took successive positions, culminating by being the chief of the homicide division, ran in the primary election in 1977 against a powerful Democratic machine and pulled the upset of the decade.

He was elected in the fall of 1977 by a large majority and he was reelected in the fall of 1981, with an even larger majority.

He administers a large, complicated, and very difficult office in a city with a very high crime pattern, and it is a great pleasure for me to observe him in that office and to welcome him here today to testify before this committee about S. 1688 and the problems of law enforcement generally in a big city prosecutor's office.

Welcome.

STATEMENT OF EDWARD G. RENDELL, DISTRICT ATTORNEY, PHILADELPHIA, PA.

Mr. RENDELL. Good morning, Senator Specter.

Thank you very much for those remarks.

What I'm about to detail in the first part of my statement is something I know will come as very little surprise to you, not only because I know you keep actively involved in what goes on in the city of Philadelphia, but because it is a pattern that was existent to a lesser degree but still existent during the time period you served the citizens of Philadelphia as district attorney.

I would like to sketch out for you some of the things that have happened in the last month in the city of Philadelphia.

On February 16, in the evening hours, a 21-year-old woman was on her way toward a Center City restaurant. She passed the intersection of 20th and Cuthbert Street where she was grabbed by an assailant wielding a knife who dragged her into an alley. He proceeded to rob her of all of the money she had, and began to attempt to rape her.

She resisted and tried to grab the knife, and in the process lost the tip of her finger. He then proceeded to punch her so severely he fractured her jaw in two different places. He then was successful in culminating the rape both vaginally and anally. After the rape, she continued to struggle. He stabbed her with the knife.

The force of the stabbing motion was so violent that the knife broke at the handle, leaving almost a 6-inch blade imbedded in her chest and nasal cavity.

He proceeded to—before that, he had slashed her throat as well. He left her for dead in an alley and somehow miraculously she managed to crawl back to the intersection where a taxicab noticed her and took her to the hospital.

She survived and has lived to this day and will survive physically. She suffered seven cut tendons of her fingers, severe scarring, severe damage to her nasal cavity, and nerve damage and partial blindness as a result of the attack. That is probably the best part of it.

The emotional and psychological scars this 21-year-old lady suffered will never leave her the rest of her life.

It turns out that the man arrested and charged with the alleged offense was a man by the name of Alonzo Washington who in the space of 5 years preceding the offense had been convicted of voluntary manslaughter and 3 years later of robbery.

Because of sentence patterns that existed in the city of Philadelphia for these two prior offenses, Mr. Washington received a total of 8 months in prison. Therefore, he was free on the streets of Philadelphia on the night of February 16 to commit this very vicious and horrible assault.

Last Thursday, March 11, two masked bandits went into a restaurant in the City Line section of Philadelphia; it was before the restaurant opened for business in the late afternoon, and they herded the four employees, manager, and three other employees, into the food freezer, closed the freezer door, and proceeded to ransack the place for cash and valuables.

After they finished the robbery, they opened up the freezer door and began to shoot at the four people. They killed two and two escaped because their guns jammed and they felt it was a propitious time for them to flee. As they were going out the door, a mailman came in to deliver the afternoon mail. They shot him in the temple and killed him, as well.

Shortly after the incident was uncovered, the owner of the store, former heavyweight boxing champion, Joe Frazier, the owner of the restaurant announced it was closing permanently.

This past Saturday on March 13 an 82-year-old woman was walking to her church at 12th and Lombard Street, when she was mugged on the streets of Philadelphia, mugged unbelievably for the 12th time in the past two decades.

She had been mugged at St. Patrick's Day Parade, mugged coming out of a center city department store, mugged three times coming from church, from her apartment, only 2½ blocks from her church.

When questioned by the police, this 82-year-old lady said, and I think she spoke to probably all of the senior citizens of the city of Philadelphia, "I'm scared to death. The thought of just going out terrifies me."

So the beatings go on in the fourth largest city of our Nation and crime continues to eat away at the hearts and minds of the citizens of our Nation.

These three horrible crimes committed within less than a month are unfortunately not isolated examples, rather all too typical occurrences, they are typical of the fear that grips women who walk our streets, and just our public transportation system, never knowing when they will be the target of sexual assault, typical of the fear that imprisons older people behind locked doors, typical of the crime that has caused so many Philadelphia businesses to give up the ghost and shut the doors permanently.

Senator Spector, I'm sure you're aware of a First Pennsylvania Bank study just released last week, a copy of a news article is attached in our appendix, which delineates those businesses that closed down in the Philadelphia area. The major reason was fear of crime. Not wages, not taxes, but fear of crime.

So that effective crime in a city like Philadelphia is debilitating. As you are aware, in the last 30 months, there has been an explosion of violent crime around this country. This has been heralded in news stories, both Time magazine and Newsweek magazine, in cover stories, stories about the effect of violent crime, a 10-percent national increase in violent crime, 15-percent increase in urban centers and in the year of 1980, the city of Philadelphia suffered the debilitating effects of a 22.5-percent increase in violent crime.

It gives our citizens very little solace to know despite that increase, we still rank as the safest of the 15 major cities, 15 larger cities in the United States of America.

When the citizens of Philadelphia are told that—they do not feel any safer—but they just stare with amazement and wonder what in God's name is going on in the other 14 cities across this country.

It is imperative to me and imperative to the citizens of our cities that law enforcement begin to try to do something about this problem. All of us recognize, and I know you, Senator Specter, are in the lead in this, that law enforcement and the justice system is not the complete answer to crime.

There are social causes, economic causes, which breed crime and until government addresses itself to those root causes, crime will never end in American cities and American suburbs and American rural areas.

However, the law enforcement community can do something about crime. We can check the increase. We can't wipe it out entirely. We can begin to turn the picture around if given the proper funds and resources.

LEAA, I heard Congressman Hughes talk about the LEAA, and I agree with him, LEAA had a checkered past. A lot of the earlier LEAA programs were useless, were junk, some of which included useless hardware, some of which we received in the Philadelphia district attorney's office in the early seventies. It was almost foisted upon us, that type of hardware.

In the last 5 years of existence in my judgment, LEAA matured. It matured into probably the most effective, broad-based crime fighting effort that this Nation has ever seen. It spawned programs that changed the face of law enforcement in many major cities.

We are not here, myself, Dave Armstrong, from the president of our association, prosecutors, police, all across the country, we are not here asking for the resurrection of the bureaucracy. We do believe that the funding that was available to us through LEAA must be made available to us again. All the rhetoric notwithstanding, resources come from dollars. There is no better solution or beginning step toward the solution of the crime problem than dollars.

I would like to draw the subcommittee's attention to what LEAA has meant for the prosecution effort, for the city of Philadelphia.

In the 4 years that I have been district attorney, we have received close to $2.8 million in LEAA funds. All of those funds ran out in June, at the end of June 1980. Those funds help us create our career criminal unit which had a tremendous impact. As you are aware, Senator Specter, 70 percent of the criminals commit 28 percent of the crime in the city of Philadelphia; 64 percent of all violent crimes are committed by recidivists. Our career criminal unit received a 92-percent conviction rate, was so effective as a procedural administrative unit that we lost not one single case under our rule 1,100, under our speedy trial rule, because of the type of vertical prosecution that our career criminal unit enabled us to have.

Senator Specter. Was this fellow, who had been convicted of voluntary manslaughter and robbery, within the career criminal unit?

Mr. Rendell. He wasn't within the Federal standards.

An LEAA—we were beholden to follow the LEAA standards which require the three convictions of major crimes or two robbery convictions. We don't have an LEAA-funded career unit but have a career criminal unit of our own within the ambit of our own standards. Additionally, the LEAA funds allowed us to fund fully our rape unit which has probably the most successful story in Philadelphia prosecution efforts in the decade.

It allowed us to fund our juvenile victim witness unit which first time brought the public into the juvenile process. It allowed us to fund a sentencing unit never before used in Philadelphia. A sentencing unit for the 500 worst felons. We now prepare in the city of Philadelphia district attorney's office sentencing reports, a copy of which is attached in the appendix. These sentencing reports are prepared by a unit of 10 mostly clerical people who research Federal convictions out of the State convictions, the facts of State convictions from 4 or 5 years ago, and in fact, in the case in question, I have included in the appendix, the court record showed this individual with no prior convictions.

In fact, he had no prior State convictions, but thanks to our sentencing unit, we were able to tell the judge not only did he have 2 prior Federal bank robbery convictions, but that during the course of that investigation by the FBI, 1 of those bank robbery convictions, he admitted to having committed 14 other bank robberies.

Senator Specter. Which fellow are you talking about now?

Mr. Rendell. This is not one of the three examples I gave. It is covered in our attached sentencing report.

I attached a sentencing report in the case of *Commonwealth* v. *Raymond Johnson*. Without this sentencing report, we wouldn't have been prepared until there was a sentencing unit that had been started with LEAA funds, without that report, the sentencing judge would have felt that Raymond Johnson had no prior convictions.

With that report, we were able to tell him he had 2 prior convictions, Federal bank robbery convictions and he admitted to the FBI he had 14.

Senator SPECTER. Why didn't this come out from this Philadelphia Police Department?

Mr. RENDELL. The Philadelphia Police Department does not get Federal convictions. To this day, it does not get Federal convictions, one of the real weaknesses of our computerized criminal record system. These two Federal convictions weren't even recent. They were 5 or 6 years old. They still did not pick them up.

We don't get out-of-State convictions unless the Philadelphia police were notified, unless an individual was a fugitive from New Jersey, unless they got notice of it because he got involved in an apprehension of this out-of-State felon.

Our sentencing unit, we were able to provide that information to the judge, and Mr. Johnson got a significant sentence.

Senator SPECTER. Where does your sentencing unit get the Federal convictions?

Mr. RENDELL. We call the FBI. It is as simple as that.

Senator SPECTER. Does the FBI have the records now for all the other State convictions?

Mr. RENDELL. The FBI has most, not all. But they are a good vehicle for giving us most of it. Certainly east of Indiana, at least, we get pretty good information from the FBI. That is because we have a sentencing unit. If we never had a sentencing unit, we never would have had this type of information.

LEAA was responsible for giving Pennsylvania a $1 million grant so we do get the funds necessary to buy electronic surveillance equipment. In 1979, the Pennsylvania Legislature passed a new law legalizing electronic surveillance, wiretapping, things of that nature. Philadelphia might have had a shot at getting some equipment. The other counties had no chance of convincing their funding authorities to produce that type of money for an initial capital expenditure.

Because LEAA existed, as I said, we got $1 million to buy equipment that is now housed in eight different counties throughout the State and is available to any other county. The equipment we bought, we have to lend out to Berks County if they need a surveillance, wiretap, things like that. It couldn't have happened without LEAA.

Congressman Hughes talked about arson, domestic abuse. Those are all things that came from LEAA funds. We have been successful. We have been so successful that in this demonstration project, as you're aware, Senator Specter, the whole theory behind LEAA was to give the States and localities money to run innovative programs for a demonstration period, 3 or 4 years, to maximum.

If those programs were good, they could use the experience to convince their local funding agencies that those programs are worthwhile keeping despite the economic problems the city of Philadelphia has. It was successful enough and postprograms were successful enough, I convinced our city council, incidentally, not our city administration, our city council to give us $1 million to continue about 70 percent of the programs that we had presently under operation as of June 30, 1980.

Senator **Specter**. Did you get the money?

Mr. **Rendell**. We got the money.

We got $1 million in addition to our general budget when our LEAA funding ran out.

Senator **Specter**. Did the administration sign off on it?

Mr. **Rendell**. They did not veto it, so it came into law. So LEAA worked to perfection.

As a result of our experience, our recommendations for this subcommittee today are twofold.

No. 1, we urge you to support Congressman Hughes' bill. We urge the Senate to enact it swiftly.

The only problem we have with Congressman Hughes' bill, frankly, it is too modest; $170 million for a national effort at crime in our judgment is too modest.

But I noted that Mr. Stockman was quoted in reference to Congressman Hughes' bill and Mr. Stockman stated:

> The administration's position was that in the past decade State and local criminal justice agencies—State and local criminal justice agencies have developed a dependency on Federal Government for improvements in their criminal justice programs and that this trend is undesirable.

Mr. Stockman did say, however, that while the Federal Government has a legitimate role to take in assisting the State and local government in fighting crime, that responsibility is being adequately met through programs of the International Institute of Justice, Bureau of Justice Statistics, National Institute of Corrections, as well as through DEA and the FBI.

That is plain and simply not so. I don't know where Mr. Stockman gets his information, but it is not occurring in Philadelphia. That is not occurring in Boston. That is not occurring in Detroit. That is not occurring in Los Angeles.

Seven district attorneys came down in the first year of the Reagan administration to talk to the Deputy Attorney General Schmaltz, and told him there was only one answer, not the rhetoric we get far too often from the Reagan administration, but money, plain and simple as that.

Senator Specter, you are aware that with the possible exception of S. 1688, which I will talk about in a moment, by and large the efforts against street crime, efforts against rape, efforts against robbery, efforts against arson, efforts against murder, are essentially the State's responsibility. That is the way our constitution is framed. Nothing we can do will ever really change that to a great degree.

Since that is the case, it appears to us that the Reagan administration's efforts against crime so far have been a lot of rhetoric, a lot of hot air, and very little substance. You can talk all you want to talk about repealing *Miranda*, no administration or Congress can do that. The Supreme Court can do that on a case-by-case decision basis.

The other things the administration talks about are pure window dressing. If we are really going to get serious about fighting crime, we have to allocate the dollars to do so.

I sat here and listened to Lowell Jensen whom I have a great deal of respect for, who was marvelous when he served the people in Alameda County in California, talk about S. 1688 as one of the answers. And S. 1688 is a good proposal.

But let's look at the impact S. 1688 would have in Philadelphia. The U.S. attorney's office, as Congressman Hughes has noted, throughout the country are declining more and more crimes that fall within their existing Federal jurisdiction. My office prosecutes embezzlements which we never prosecuted 5 years ago. It was always prosecuted in the Federal system. Our office now prosecutes 40 percent of the bank robberies that we never prosecuted 5 years ago. They were in the Federal system because the U.S. attorney, due to the Reagan administration budget cutting, is declining more and more cases.

I ask you, how in God's name given that type of declination policy, given that type of narrowing of responsibilities, are they going to undertake an effort like S. 1688. They simply don't have the prosecutors, don't have the experienced street crime prosecutors to do this, in my judgment, they don't have the resources to do it.

S. 1688 focuses on the crucial problem, career criminals and recidivism. It probably wouldn't help that 83-year-old woman in Philadelphia because she's been mugged by a variety of people, a variety of people who feel absolutely free to prey upon our citizens.

Our first recommendation is not only to adopt the House bill but to expand it in terms of the dollars available. I know that is a very, very difficult thing to do under the current climate down here. I will talk about that in a second.

Our second recommendation, and it hasn't been talked about by anybody here, the bill proposed by Senator Dole. I don't know if that bill is still alive to give matching funds for the construction of prisons, to States. That bill should be acted upon swiftly by the Senate, and in my judgment should be adopted overwhelmingly.

Prisons are only one part of the answer, but clearly none of us can get tough on crime in just a rhetorical sense unless we are going to have a place to put individuals.

In Pennsylvania, we just passed a mandatory sentencing law that requires a 5-year mandatory minimum for repeat offenders, 5 years for violent crime, 5 years on anyone who uses a firearm to commit an offense, anyone who commits a violent crime in the transportation system.

We were hard-pressed. We scraped up this money to construct 2,400 new prison beds, prison cells in the State penitentiary system. That will fall 2,000 prison beds short. If we had matching for that allocation, we could have constructed exactly what we need.

Senator **Specter**. Where were those beds placed?

Mr. **Rendell**. They are going to be placed at 500-bed additions to 6 existing facilities throughout the State. One in Greaterford.

Senator **Specter**. Are they going to expand those facilities?

Mr. **Rendell**. Some occasions, expand. In the instance of Greaterford, they are going to build within the walls, build an additional facility within the walls of Greaterford itself.

I'd like to close by saying that I know there is a price tag for the Hughes bill. I know there is a price tag for the Dole bill. All of us in law enforcement from the Chief Justice of the United States down to the policeman on the beat, are frankly sick and tired of hearing people in Washington, and that goes for the Reagan administration, to Members of Congress, telling us that there is no money available, that we have to tighten our belts. They tell us that, when in the same breath we read the country of Pakistan was offered $400 million in aid that they turned down. They tell us that in the same breath when they allocate over $50 million for military bands. They tell us that when we are supporting governments in other countries regardless of whether those governments are on the right or wrong track, supporting them against insurgent guerrillas.

I would submit that the people of Philadelphia care very, very little about what goes on in Pakistan when they are so afraid they can't walk out their doors at night.

They care very, very little about insurgents in El Salvador. They are more worried about the rapist and robber in Kensington and north Philadelphia, and it is no excuse, and I think the American people have to be told that it is no excuse. Money is available in Washington.

The military budget got a staggering increase. I was in the Reserves. I know exactly where that money goes, in the Reserves that do nothing. I know officer clubs are funded out of the Government money. I know military bands are there. I know you could take a scapel and cut that military budget and not give us $170 million, you could give us $750 million already appropriated, to Congressman Hughes.

I don't think we in the law enforcement community are going to remain silent very much longer. Our association, the National District Attorneys Association, which is made up of people from the Republican Party, the Democratic Party, our association has for awhile not gotten into the fight with as much zest and vigor as I would like to see. Basically, there was some reluctance to take the administration head on on this.

I am not reluctant. I know Republican district attorneys are not reluctant individually. I know Mr. Armstrong isn't reluctant. I think our association is coming to the point where we not only endorse the Hughes bill, we are going to speak up loud and clear.

The American people have to be told that $170 million is a drop in the bucket compared with what we spend—I am not saying aid to Pakistan is not as important. I am saying it isn't as important as money to fight crime in Philadelphia, Detroit, Dallas, and Chicago. Money to worry about the Russians and foreign invasion, not that that is important, but the scorecard in the city of Philadelphia for the last decade reads people killed by the Russians is zero. People killed by the criminals is 52,000, thousands of people raped, thousands of people robbed, not one Russian has yet to inflict any crime on the citizens of Philadelphia.

I think it is time we reordered our priorities. I think it is time we worry about what is going on at home, worry about killing at home, not much more so than we have to—if we have to prioritize, I agree with Lowell Jensen, this is the time when fiscal belt-tightening is a fact, it is a reality, you don't prioritize with the lives of people of the big cities and the suburbs and the rural areas of this country.

I know, Senator Specter, you have been a fighter for law enforcement efforts way beyond the time you became Senator, and all of us in the law enforcement community appreciate the efforts you made, and you know that my colleague, Mr. Armstrong, will talk on behalf of the association.

We appreciate what you have done, but your views have got to be listened to and got to be listened to very quickly.

Senator SPECTER. District Attorney Rendell, the balancing of resources is inordinately difficult, and I do believe that more resources ought to be allocated to the fight against violent crime. When we look at the overall budget and you talk about the scorecard on deaths in Philadelphia caused by the Soviet Union as contrasted by Philadelphia caused by robbers and burglars, I do know you do not mean to say that there is not a risk potential from the Soviets that does not have to be attended to.

But those are balancing matters, and earlier this week, in this very room, the Defense Subcommittee on Appropriations heard from the Pentagon on their request for the budget. And yesterday, in another room, but in this building, we heard from the Student Loan programs, and in still another room yesterday we heard from the Department of Agriculture on the budget, and still in another room the Appropriations Committee met to see what we could do about a $91 million budget in which the President projects a deficit of $120 billion which the Congressional Budget Office projects, and it is a gigantic balancing act.

But I do come back to big cities and the problems of law enforcement, and I do think that we have to allocate resources to programs which have worked.

If you had to pick a figure, what would your figure be, the $170 million, $750 million?

Mr. RENDELL. To do the job, I think if we go—the Hughes program bill allocates, guarantees, guaranteed allocation of $250,000 to each State. That is a drop in the bucket.

Virtually, the Philadelphia district attorney's office right now has an $11 million budget alone. And that is one city in the State of Pennsylvania. To talk about $250,000 for the State of Pennsylvania is absolutely ludicrous, and I agree obviously with your statement, I didn't mean my statement on the record to be taken to say that we shouldn't worry about them. But I don't see where military bands protect us against Russians.

I was in the Reserve unit that spent almost three-quartars of the taxpayers money, Senator, and if that Reserve unit was stationed at 15th and Market Street, massed against the Russians, we couldn't give the citizens of Philadelphia 3 minutes' protection if they were standing on Broad Street.

Senator SPECTER. It might do some good on the rape problem.

Mr. RENDELL. Unlikely. Unlikely.

There is so much fat in all of these programs, we in Philadelphia have to sit by and hear there is no money for law enforcement and then we see $220 million, or am I wrong, I may be low on it, on some project for a dam in Tennessee.

It is mind boggling to us.

Senator SPECTER. You are correct, you are wrong.

Mr. RENDELL. It is more than $220 million.

Senator SPECTER. If you're talking about the Tennessee—Mr. Armstrong could focus on it, since he comes from Louisville.

Moving back to a subject which I would like to have some amplification on, is the issue of sentencing. You illustrated the sentencing problem with the violent robbery-rape at 20th and Cuthbert, an extraordinarily heinous crime, which you describe in some detail. Why don't judges sentence adequately, District Attorney Rendell?

Mr. RENDELL. I think that is a question, Senator, that has a number of answers, and many different answers from many different judges.

I think there is some concern about the lack of prison space that motivates some of the judges—not all of them. I think there is some concern about that, concern about it that would be resolved by the Dole bill passing swiftly and by the funds being allocated by the Dole bill.

I think, also, the overriding reason is the way judges are selected in the State of Pennsylvania and the county of Philadelphia, through the partisan political system.

I think we produced, by and large, judges through that system that aren't of the best caliber. I think we produce judges through that system that are inherent compromisers.

Senator SPECTER. Political selection is undesirable?

Mr. RENDELL. In my judgment, yes.

Senator SPECTER. The way I hired assistant district attorneys was preferable?

Mr. RENDELL. That is right. Not only that, you created a pattern that ever since you left office has remained in effect through different administrations, that there has been really because of what you have done, political consideration for hiring of assistant district attorneys has never come back, I don't think, ever will, because of the way you developed the office.

Senator SPECTER. I recollect an elevator ride with you a few days before my term ended.

Mr. RENDELL. So do I.

Senator SPECTER. You tell the story.

Mr. RENDELL. We were going up in the elevator about 3 days before——

Senator SPECTER. Coming down.

Mr. RENDELL. Coming down. We were 3 days before our term was up, and you asked me what I was going to do, and I said I was going to leave the office and I was thinking of going into politics and you said, "Well, that is great. I will call Bill Meehan for you."

Bill Meehan, at that time, was the chairman of the Republican Party, and still is. "There is something I've got to tell you. I am a Democrat."

I had been with you 6 years as assistant district attorney, two summers as a law intern, and you had no idea what my political affiliation was, and that is as it should be.

If we can get the same type of selection process into the State judiciary we could do better. One of the reasons we think S. 1688 is attractive to us in prosecution, the selection of Federal judges, although not totally derived of politics, is far more devoid of—produces a better caliber of Federal judges who do sentence more correctly, more strongly, and S. 1688 if it is adopted, if it does pass constitutional muster, will allow us to take some of our very, very bad criminals who we may not get adequate sentencing on in the State court, and have them tried in Federal court, before that type of a judiciary.

That is why S. 1688 is attractive.

I am sure you're aware of the program that you and the present U.S. attorney have enacted in gun cases. In Philadelphia, when we have someone who is in possession of a loaded firearm, just a violation of the Firearms Act, regardless of that person, our judges will never give a jail sentence. They found people with possession of firearms that went through interstate commerce, and since almost all handguns come from Massachusetts, at least part of the handguns come from Massachusetts, that qualifies for all offenses, 20 or 30 of our worst repeat offenders who are just charged with firearm violations go to Federal court where they are getting routinely 1-, 2-, 3-year sentences.

Those are the types of programs, that—Lowell Jensen is right. Those are the types of programs that can't help without an extra dime being allocated. These are drops in the bucket.

Senator Specter. I am interested in hearing you say for the record that Federal judges do hand out tougher sentences in Philadelphia, which has been my experience as well as the experience you have found.

Mr. Rendell. There is no question about it, and our experience with the program on firearm violation makes that abundantly clear.

Senator Specter. So that you have, as a matter of coordination, sent some cases to the Federal courts to get tougher sentences?

Mr. Rendell. We sent as of now over 20 cases. We have declined prosecution ourselves. They come to us because the police made the initial arrest. We concluded we are not going to get the type of sentences we would like to get a bad criminal carrying a loaded firearm, so we contact the U.S. attorney's office and send the case down for Federal prosecution.

Senator Specter. Do you know if the career-type criminals, that is, professional burglars, are aware of the sentencing patterns?

This is a question which obviously answered itself in the common pleas courts in Philadelphia, and the judge shopping and skipping from one courtroom to another?

Mr. Rendell. I don't think there is any question.

Senator Specter. They would have a very different view if they knew the judge, starting off with Judge X, they are going to get Judge X on the final day?

Mr. Rendell. I don't think there is any question about that. I would say with any great deal of confidence, in places way beyond Philadelphia, I happened to see a program on "60 Minutes" where Ed Bradley of CBS News did a show on juvenile crime in Los Angeles. It was very interesting to me. It could be Philadelphia without changing anything. He went in and interviewed the juveniles who had been detained for committing crimes, murder, robberies, rapes, and he asked them a very simple question. Why? Why did you do it?

And their answer is very direct and simple. "Why not? We know we can't get punished under the juvenile system."

I think that is the attitude that prevails in the streets of Philadelphia, Los Angeles, everywhere. I think as long as that attitude prevails, we are never going to even make a dent in the crime problem.

S. 1688, in my judgment would be effective on that point. We have a mandatory sentencing bill that we got in Harrisburg. OK, it's over, if you commit one of these categories of offenses, 5 years, period. I believe that factor can deter crime.

Senator SPECTER. I am not representing, as you know, S. 1688 to be the beginning of the end of Federal responsibility. I think it focuses down upon what Lowell Jensen testified about, that if you have coordinating counsel and the local prosecutor said to the Federal prosecutor, "You take this career criminal, take a handful of them, and the word will go out to thoughtful career burglars who make their plans and they will be very apprehensive about catching the repeat wheel."

Mr. RENDELL. There is no question about it.

In the career criminal section in our office, we had a very humorous but very poignant incident take place.

At the arraignment of a career criminal caught for robbery, the judge asked him how he intended to plead, guilty or not guilty. He said, "Well, Your Honor, you know this is a career criminal case, so I might as well plead guilty."

That is the impact even a unit like the career criminal unit, a local prosecutor can have on hardened offenders, no question about that.

Senator SPECTER. Did he like his judge?

Mr. RENDELL. Did he like his judge?

Senator SPECTER. He must have liked his judge. If he didn't, he could come back another day and get another one under the Philadelphia system.

Mr. RENDELL. I think he realized there was going to be no slipups. But the case was going to be handled well from beginning to end. He had very little chance of beating it, he might as well plead guilty at the earliest possible junction.

Senator SPECTER. Why—if he had gotten a different judge, he could have gotten an easier judge.

Mr. RENDELL. He was in front of a judge at that point who—he could have entered his plea, and did enter his plea—was considered one of our more lenient judges.

The point I am making, they didn't even know about the effectiveness of prosecution programs as limited to career criminal problems.

Senator SPECTER. Coming back to the question of sentencing, and the issue of judge selection and politics.

Are you suggesting that there is a political consideration of sentencing, a political fix?

Mr. RENDELL. I don't know if fix is the correct word, but I think there is no question certain lawyers do better in front of certain judges.

There is no question that the public defender's office has stated publicly that there are certain judges in Philadelphia who give out more lenient sentences to those clients represented by private counsel than clients represented by the Public Defender's Association.

The public defender has on a number of occasions protested to our present judges, specifically naming those judges that followed that pattern. I think they do that because through the political process, our judges were selected and there are people who know how to get along and how to deal, and how to compromise.

When Alonzo Washington comes up for sentencing, if he's in fact the man who did it, and if he is in fact convicted, there is no room for compromise. If you are a judge, you are prepared to say, 20 years in prison, knowing full well, that is the end of any chance of Alonzo Washington having a fruitful life. If you are not prepared to do that, you ought not to be on the bench.

Senator SPECTER. What you are saying, the kind of a judge selected through the State system in Pennsylvania as a matter of character and temperament makes them more susceptible to influence by lawyer friends as contrasted with Federal judges selected in a different way?

Mr. RENDELL. No question about that.

There are some very notable refreshing exceptions in the judiciary on that pattern. There are some judges that decide wholly on the facts of law, period. It doesn't matter if it's the mayor's brother, whoever is representing the defendant. It simply doesn't matter. But as an overall group, they are clearly more susceptible to that type of influence.

Senator SPECTER. Do you think judges are apprehensive about retaliation if they impose a tough sentence?

Mr. RENDELL. No, I don't think that occurs frequently enough to be a realistic fear in any judge's mind.

Senator SPECTER. Do you believe judges are reluctant to impose a long sentence because they are not strong enough internally to face that defendant on the day of sentencing and say, 10 to 20 years?

Mr. RENDELL. I think in the number of cases, that is correct.

I remember a judge who served when you were district attorney, David Kenley was appointed for about a year and a half and Judge Kenley was a very fine and decent man, and he would almost get physically sick when he had to sentence someone to prison. When it came time to run for a full term, he declined to do so because he realized he just wasn't suited temperamentally to put them in jail, and Judge Kenley has probably more respect than any man or woman who sat on the bench to have the personal integrity to do that.

Senator SPECTER. The dominant reason which you have given on association with lawyers is temperament. I do not think it explains it enough. I don't have an answer as to why judges don't sentence.

Mr. RENDELL. There is also another answer, and that is sort of defensive, some of the Philadelphia judges, they are like to some extent, because of the massive quantity of violent crime that they see, they are like to some extent doctors in a field hospital, where they see so much, so many patients with wounds that are death producing, after awhile they get inured to the shock and tragedy.

Senator SPECTER. You think they don't see as much as you do as district attorney?

Mr. **Rendell**. I think they see so much that they tend, for instance, to treat a robbery without a weapon as not as serious an offense, because they see robberies with weapons, so many robberies where there is physical violence, that robbery without a weapon is not very serious.

I think Federal judges that see less in terms of numbers of that type of crime would not have that type of jaded approach as the State judges do.

For instance, one of the reasons we transferred the firearms cases down from our office, judges will turn to the assistant attorneys and say, "Look, Mr. Jones, the firearms case, I have to worry about available prison space for people that actually do harm."

That is an incorrect attitude. It is, in fact, the prevailing attitude.

Senator **Specter**. I know you have a train to catch.

I just want to ask you one or two more questions about S. 1688.

Is the language, which I read before, appropriate in your judgment:

> If, after full consultation between the local prosecuting attorney and the appropriate Federal prosecuting attorney, either the local prosecuting attorney requests or confers in Federal prosecution, and the Attorney General finds such prosecution practical for the Attorney General or designated Assistant Attorney General determines that Federal prosecution is necessary to indicate a significant interest, then Federal prosecution may be initiated under this act?

Mr. **Rendell**. That language would not bother me because of my current relationship with the current U.S. attorney. However, I think the second aspect of that could create some problems. You could have a degree of competition between the two offices as to a very grievous case. Assume the *Alonzo Washington* case, for example, fell into the category of S. 1688, I think it probably does because of the high visibility nature of that case, you might have both offices wanting to try it. You might have a situation where the Federal prosecutor, because of that second clause, would usurp that type of a case.

I think Mr. Armstrong is more qualified to answer that question on behalf of the association and on behalf of all the district attorneys.

I wouldn't worry about that with the relationship I have with our present U.S. attorney.

Senator **Specter**. Well, the standard has been structured to put the heavy emphasis on the local prosecutor's control.

Mr. **Rendell**. Unless I misunderstand it, there is a second clause——

Senator **Specter**. Yes; there is, if someone at the very highest level of the Justice Department says there is a significant Federal interest. It does not leave a total veto power with the local district attorney, but in order to overrule his veto, there must be action by the Assistant Attorney General.

We tried to strike that balance and your experience, I think, is significant. You say in terms of what you have seen, you can hypothesize a situation where there might be competition. But under the second clause, it would have to be more than competition between the district attorney and the U.S. attorney.

Mr. **Rendell**. As I said, from my perspective in Philadelphia, it wouldn't be a problem. Maybe Mr. Armstrong could give you more of our association's feelings on that, Senator.

Senator **Specter**. Well, we thank you very much, District Attorney Rendell, for taking the time to come here. It is very interesting to be in the U.S. Senate and this has been one of the most interesting mornings and especially pleasant to have you before the subcommittee.

It is nice to see you here as well as on the block where we live in Philadelphia.

Mr. **Rendell**. Well, I think many of the district attorneys I know are very heartened by the fact that someone is keenly aware of the problem of crime and law enforcement, perhaps someone such as you now seated in the U.S. Senate.

[The prepared statement of Mr. Rendell follows:]

PREPARED STATEMENT OF EDWARD G. RENDELL

On the night of February 16, 1982, a twenty-one year old woman was walking at the intersection of 20th and Cuthbert Streets in center city Philadelphia on her way to a restaurant. Seconds later, she was attacked by a male who put a knife to her throat, told her not to scream and forced her into a small alley. He proceeded to rob her of six dollars and then raped her vaginally and anally holding the knife at her throat all the while. After completing the rape, he grabbed her by the hair and cut her throat. In the ensuing struggle, the victim attempted to take the knife, but failed, severing the tip of her finger, but she continued to struggle. The assailant continually punched her, fracturing her jaw in two places, and he finally stabbed her in the face. The handle of the knife broke off, leaving the knife blade almost completely buried in her face. He left her for dead, but she managed to desperately crawl back to the intersection where she was found by a cab driver. Miraculously, the victim physically survived this attack, but suffered numerous injuries including severe scarring of the face, nasal cavity damage, tendon damage to her hands, as well as the loss of her fingertip, and hearing difficulties due to blood clotting. Needless to say, the psychological and emotional scars the victim suffered will stay with her the rest of her life. Those scars will never heal. Several days later, Alonzo Washington was arrested and charged with this hideous crime. In the five years prior to this attack, he had been convicted of voluntary manslaughter and a robbery. He received a total of eight months incarceration for both crimes and, therefore, was walking the streets of Philadelphia on February 16th.

On the afternoon of March 11, 1982, two masked robbers entered a restaurant on City Line Avenue in Philadelphia and at gun point they herded the four employees present into the freezer. They proceeded to ransack the premises, including the business office, taking all the cash and valuables on hand. After seizing the money, they opened the freezer door and began shooting, killing the wife of the manager and another employee. The other two employees escaped only because the hoods' guns misfired. On their way out, they surprised a mailman coming in and killed him to make sure they left as few witnesses as possible. These thugs have not been apprehended yet, and the owner of the restaurant, former heavyweight boxing champion Joe Frazier, has decided to close it indefinitely.

On this past Saturday, March 13th, 82 year old Catherine Botto was mugged for the 12th time in the past twenty years as she walked to her church, St. Peter Claver at 12th and Lombard Streets. She has been robbed outside a downtown department store, at the St. Patrick's Day Parade, on a bus, and several times on her way to church. Mrs. Botto, speaking for the senior citizens of Philadelphia, said after this last attack, "I'm scared to death. The thought of going out just terrifies me."

So the beat goes on in the fourth largest city of our nation and crime continues to eat away at the hearts, minds and spirits of its citizens. These three horrible crimes, committed within less than a month, are unfortunately not isolated examples but, rather, all too typical occurrences. They are typical of the fear that grips women who walk the streets and use our public transportation system, never knowing when they will be the target of sexual assault. They are typical of the fear that imprisons older people behind the locked doors of their own houses. They are typical of the crime that has caused so many Philadelphia businesses to give up the ghost and shut their doors permanently.[1] In 1980, violent crime rose over 10% throughout America and over 15% in its urban centers. Philadelphia experienced a debilitating

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[1] In fact, a recent study by the First Pennsylvania Bank indicated that the primary reason given by businesses who have left the area and relocated is crime, not the high level of wages or taxes.

22.5% increase in violent crime during that period. 1981 figures are not reported yet, but our violent crime rate has continued to increase. Unbelievably, despite this violent crime explosion, Philadelphia still ranks as the safest of the nation's fifteen largest cities. This is of little solace to Philadelphians who only shake their head in wonderment and try to imagine just what in the world is going on in those other fourteen cities. Crime rates as their number one concern, even greater than the state of our economy.[2]

Obviously, because there are many different causes of crime, there is no single answer for it. No one in law enforcement fails to realize that crime has its roots in the social and economic problems facing our country today. Nor do any of us fail to realize or acknowledge that by making our system more effective and stronger we can have an impact in stemming the rising tide of crime. But to do so, we must have the necessary resources to cope with the increasing violence and the problems it creates for us.

Currently, urban courts, district attorneys' offices, and police departments are overburdened. During 1980 alone, over 46,000 defendants were processed through the Philadelphia courts. Because of the dramatic increase in crime in urban centers, I believe that it is absolutely necessary for us to not only maintain law enforcement, both the police and the prosecutor's offices, at its present level, but it is incumbent upon us to significantly increase their capabilities to fight this additional caseload. The efficient operations of police and prosecutors must keep pace with these trends, and the resources we have available to fight crime must be increased in proportion to increases in violent crime.

During these times of government cutbacks in Washington, coupled with our well-known financial problems in major cities, we all can appreciate the need for reductions in spending and balanced budgets. However, in light of increasing crime rates and public concern, increased funding for fighting crime must be a priority to those of us involved in government.

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[2] Study of Philadelphia's neighborhoods by The Philadelphia Council of Neighborhood Organizations, attached in Appendix.

Over the last ten years, the Law Enforcement Assistance Administration has been a major source of funding for urban court systems, district attorneys' offices, and police. Only through LEAA funding have these agencies been able to cope with the increases in crime and create new innovative programs to deal with specialized problems. The shrinking tax base of the cities has prohibited funding necessary to develop such programs. LEAA continually subsidized the modernization of courts, the improvement of the efficiency of the system, and enabled the citizens to be provided with increased protection.

For example, since I became District Attorney in January, 1978, our office had received LEAA funding in excess of $2,780,000 to establish a Domestic Abuse Program to aid battered spouses; to create a Career Criminal Unit to place special prosecutorial emphasis on the preparation and trial of cases against the hard-core, repeat, violent offender; to create a Sentencing Unit which enabled our office for the first time to provide judges with total information about a defendant's prior criminal history;[3] and to supplement our Rape Unit so that it could add extra attorneys to give the rape victim special attention. The Rape Unit has had a major impact in almost doubling the conviction rate and in creating a vastly improved climate for the victim. The Career Criminal Unit has been equally successful in obtaining a 90 percent conviction rate and significantly increased prison sentences for the violent repeat offenders who cause a major percentage of our dangerous street crimes. The existence of both of these units has enabled us to have vertical prosecution -- wherein one Assistant District Attorney is assigned to the case from its inception, through trial and sentence -- which has greatly improved the preparation of these criminal cases and the sensitivity with which victims are handled.[4] The Juvenile Court Victim/Witness Unit, also funded by LEAA, has proved most successful. An LEAA grant of nearly one million dollars has allowed Pennsylvania District Attorneys to purchase equipment for wiretapping and other forms of electronic surveillance. These new tools have proved tremendously effective in combating not only white collar crime and corruption, but street crime as well.

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[3] These sentencing reports have been enormously successful in obtaining higher sentences for repeat offenders. It enables our office to provide the Court with much greater information about the offender. A copy of a report is attached in the Appendix for your review.

Because of the elimination of LEAA funding, there is no longer the potential to fully subsidize such innovative and effective programs. Due to the tremendous success of these programs, the City Council of Philadelphia, despite the city's perilous financial condition, gave us some additional funds to allow these units to continue a scaled-down existence, but there is absolutely no money available for any new programs to meet the increase in crime or to continue the prior ones at full strength and effectiveness.[5]

I believe that it is imperative that the federal government again become involved in the fight to combat violent crime. I think it is essential that a replacement be found for LEAA. We are not suggesting that LEAA as an entity be revived. Rather, we believe our goal could be accomplished with legislation that would create direct matching grants to the major cities for law enforcement purposes. Therefore, I support the passage of the Hughes Bill (H.R. 3359) which would provide up to $150 million in crime-fighting assistance. Local and state governments would be required to match every dollar, making the potential for $300 million to concentrate on major problem areas. In fact, we believe that the Hughes Bill should be supplemented with additional matching funds. Last year I testified before the House Select Committee on Narcotics Abuse. I recommended to them that a supplemental appropriation be made to the Hughes Bill with those funds being earmarked for local law enforcement's efforts to combat the increase in drug trafficking and that the total amount available be increased well beyond 150 million. I make the same suggestion to you. The criminal justice system is in a holding pattern at this time. We are barely meeting the daily demands. Without the intervention and assistance of the federal government, the tide will not be turned.

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[4] Attached in Appendix, please find a memo from a Career Criminal Unit Assistant District Attorney detailing the type of special preparation he was able to give a serious case due to the existence of the Unit and, also, a letter from the parents of a rape victim setting forth the sensitive treatment given their daughter by our Rape Unit.

[5] Though the local funding situation in Philadelphia is not encouraging, we have not reached the crisis condition that is presently occurring in Mendocino County, California, where District Attorney Joseph Allen has put out handbills stating:

> "Please be advised, the District Attorney's Office has run out of funds to prosecute you for your crimes until July, 1982.
> Therefore: Please postpone the commission of all crimes which are not urgent until after that date. Thank you."

-- Philadelphia Inquirer news article, March 13, 1982; Attached in Appendix.

As the crime rate increases and conviction rates rise, there is also the need to provide new prison facilities. As you know, Chief Justice Burger has called for expanded rehabilitative efforts in our nation's prisons. There is a definite need for swift and sure punishment for violent offenders. There must be adequate facilities available to handle the increase in violent defendants who will be sentenced to jail for longer periods of time. Again, it will be difficult for state and local governments to find the funds needed for construction of new prisons. We would urge the federal government to become their financed partner in this effort. We urge this committee to consider supporting Senator Dole's Bill which would make federal matching funds available to the states for prison construction.

Again, we fully realize the current efforts by the administration to reduce federal spending and to balance the budget. However, the administration cannot credibly tell the citizens of Philadelphia, New York, Boston, Los Angeles, Chicago, Detroit, Cleveland, Dallas, and all our major cities that there are no federal funds available to aid law enforcement when it last year offered Pakistan in excess of $400 million in aid, which offer was in fact rejected. Candidly, the people of Philadelphia -- from Kensington to North Philadelphia -- care little about conditions in Pakistan nor do they fear insurgent rebels in other countries where we support existing governments. They do care about the safety of their streets. They do fear the violent criminals who have made them prisoners in their own houses. That $400 million that was earmarked for Pakistan, if distributed equally to law enforcement agencies of our 20 largest cities, could enable us to begin to really cope with violent crime and, in my judgment, to eventually control it. It is incredulous to our citizens and to all of us in the criminal justice system from Chief Justice Burger to the policeman on the beat that our federal government and our Congress is willing to spend billions and billions on defense against potential foreign enemies while allocating not one dime to domestic defense in the fight against street crime. This Sub-Committee can begin the first step towards changing this state of affairs and by doing so revitalize the morale of law enforcement personnel throughout the country.

[From the Philadelphia Inquirer, Feb. 17, 1982]

RAPE VICTIM FOUND, KNIFE IN CHEEK

(By Robert J. Terry and Michael D. Schaffer)

A 21-year-old woman was raped and stabbed in the neck, face and hands in Center City Monday night and was found sitting on a curb with the knife still stuck in her cheek, police said.

She was in guarded condition at Hahnemann Hospital last night after undergoing seven hours of surgery early yesterday morning.

The woman left her home in the 600 block of North 21st Street between 8:25 and 8:30 Monday night to meet her husband who lives in the 2200 block of Walnut Street, police said. They are separated, according to police.

The woman told police that she walked south on the east side of 21st Street, said detective Lt. John Lyons of the sex-crimes unit. At 21st and Cuthbert Streets, under a railroad bridge, a man grabbed her at knife-point and dragged her up Cuthbert Street, Lyons said.

The man took her about 80 or 90 yards up Cuthbert Street and into an alley off Cuthbert, where he raped her and stabbed her several times, Lyons said.

The woman made her way to the corner of 20th Street and JFK Boulevard a few blocks away, leaving a trail of blood, police said. A little after 9 p.m., cab driver Fred Melmikoff, 50, spotted her, stopped, talked with her and called police, Lyons said.

Police took the woman to Hahnemann, where they questioned her briefly.

The attacker left the money she had been carrying in her pockets, police said.

She had a cut on the throat, stab wounds on both hands and a stab wound on the face. The knife, which had a six-inch blade, was embedded in her left cheek, Lyons said. She was in surgery from 2 a.m. to 9 a.m. and was admitted to the intensive-care unit, Lyons said.

Police found the victim's pants, underpants and shoes about 15 or 20 feet from the scene of the attack, Lyons said.

"This was a brutal rape, and tonight we will be sending detectives over to that area to question anybody who was in that vicinity last night," Lyons said.

Condominiums are under construction on one side of the alley where the rape occurred, he said, and a vacant garage is on the other side.

[From the Philadelphia Daily News, Feb. 19, 1982]

$1.5 MILLION BAIL SET IN CENTER CITY RAPE

(By Jack McGuire, Dave Racher, and Christopher Hepp)

A 23-year-old West Philadelphia man is being held for $1.5 million bail after being arraigned in the brutal rape-stabbing of a woman in Center City last Monday night.

Alonzo Washington, of Rodman Street near 52nd, surrendered to Assistant Disrict Attorney William Heiman, head of the District Attorney's Rape Unit, about 5:20 last night, ending a manhunt set in motion Wednesday by an informant's tip.

"I need help, please, I need help" a source quoted Washington as saying after he surrendered. Accompanied by his wife, Peggy, and lawyer Daniel Greene, Washington was shaking and visibly frightened when he turned himself in.

Washington, sentenced to 10 years' probation in the 1975 killing of a 14-year-old boy, had been diagnosed seven years ago by a court-appointed psychiatrist as "Openly hostile and aggressive" toward women.

He was charged last night with criminal attempt murder, rape, aggravated and simple assault, conspiracy and recklessly endangering another person in the violent attack on the a 21-year-old woman Monday night.

The woman, the niece of a Philadelphia police captain, had been found about 9 Monday night near 20th Street and JFK Boulevard. She had been raped and repeatedly stabbed by her attacker, who had forced her into an alley off the 2000 block of Cuthbert Street. A 7-inch knife blade used by her assailant was embedded six inches in her face when she was found.

She is in fair condition at Hahnemann Hospital where she had undergone surgery Tuesday.

An arrest warrant was issued for Washington Wednesday after the suspect's sister-in-law talked to a friend, the daughter of Deputy Police Commissioner Donald

Gravatt, and told her Washington had admitted attacking a woman. The police official's daughter told her father of the conversation.

According to police, Washington called his wife and her sister Monday night and asked them to pick him up at the Olney station of the Broad Street Subway. When the two women arrived, they found Washington covered with blood, police said.

I just hit somebody," the sister-in-law quoted Washington as saying. "I think I killed her."

He told the women to drive to the vicinity of 21st and Cuthbert streets, police said. When he spotted police cars at the scene, the sister-in-law told police, Washington said, "They found her."

He reportedly returned home and hid his blood-sained clothing in a section of Fairmount Park in Mount Airy. A search of the area yesterday turned up numerous articles of clothing, police said, which will be analyzed to see if they can be linked to the attack.

Police believed Washington fled the city and had been staying with his mother in New Castle, Del., until yesterday when he returned to Philadelphia.

Heiman said yesterday that while in City Hall on another matter, he happened to see Greene, who he recalled had represented Washington in the past.

Heiman told Greene that Police had a warrant for Washington's arrest and asked if the lawyer could help in getting Washington to surrender.

Greene returned to his office to find a message that Washington had already telephoned him. After contacting Washington, Greene alerted the DA's office that his client would be turning himself in.

After surrendering, Washington was taken to the police sex crime unit at Frankford and Castor avenues. Police sources said Washington gave police a statement before he was transported to the Police Administration Building, 8th and Race streets, for an arraignment before Municipal Judge Edward G. Mekel. Mekel set bail at $1.5 million after Assistant DA David Conner argued that because of the nature of the crime he is accused of, Washington should be kept off the streets.

"This is a crime of extreme violence," Conner said.

A preliminary hearing has been set for Feb. 24 in City Hall.

Washington's criminal record extends back to 1974 when he was arrested for the Nov. 10, 1974, stabbing death of Anthony Ritvalsky, 14, of 59th Street near Race.

Washington pleaded guilty to voluntary manslaughter in Ritvalsky's death and was sentenced by Common Pleas Judge Armand Della Porta to 10 years' probation.

[From the Philadelphia Daily News, Feb. 19, 1982]

DA Rips Judges Who Freed Rape Suspect

(By Dave Racher, Jack McGuire, and Christopher Hepp)

Alonzo Washington, an admitted killer charged with a brutal rape-stabbing of a 21-year-old woman, was diagnosed seven years ago as "openly hostile and aggressive" toward women by a court-appointed psychiatrist.

The diagnosis was contained in a psychiatric report filed with Common Pleas Judge Armand Della Porta prior to Della Porta's decision to sentence Washington to 10 years' probation for the 1974 stabbing death of a 14-year-old youth.

That decision and the handling of Washington by the city's court system in the intervening years was sharply criticized last night by District Attorney Edward G. Rendell.

Washington, 23, of Rodman Street near 52nd in West Philadelphia, surrendered to the DA's Rape Unit about 5:20 last night, ending a police search that began after an informant linked him to the attack.

The victim, a niece of a Philadelphia police captain, was slashed and stabbed repeatedly Monday night and raped in an alley off the 2000 block of Cuthbert Street. She was found near 20th Street and JFK Boulevard in Center City with a 7-inch knife blade stuck in her face.

In 1975, court-appointed psychiatrist Lawrence Byrne warned in a psychiatric report on Washington that he appeared to have "an underlying tension and anger which has an active and unresolved quality . . . [and] also shows unresolved hostile feelings relating to women."

In tests conducted for the report, Byrne told Della Porta—who later performed a marriage ceremony for Washington and his girlfriend—that Washington was "openly hostile and aggressive" toward women.

The pre-sentence investigation was ordered by Della Porta after Washington, 16 at the time, pleaded guilty to voluntary manslaughter in the death of Anthony Ritvalsky, of 59th Street near Race. Ritvalsky, 14, was stabbed to death during a party at the home of Washington's grandmother at 20th and Kater streets on Nov. 10, 1974.

Della Porta sentenced Washington on July 22, 1975, to 10 years' probation for Ritvalsky's death.

According to court records, Washington was arrested again on Oct. 10, 1978, when he was accused on punching a woman at 19th and Pine streets and stealing her wallet.

Because he was on probation, a detainer was lodged against him, and Washington was sent to prison until the charges were resolved. On April 3, 1979, Common Pleas Judge Thomas N. Shiomos found him guilty of robbery and simple assault.

Byrne conducted a second psychiatric evaluation of Washington and reported that Washington showed no major mental illness and did not require psychotherapy.

Shiomos sentenced Washington on July 5, 1979, to 8-23 months, the time he had served since his arrest. He was thus eligible for immediate release.

However, he continued to be held on a detainer until Della Porta could conduct a hearing on his probation violation on July 16, 1979.

At that hearing, the DA's office asked Della Porta to sentence Washington to a state penitentiary.

Washington, who could have received up to a 5- to 10-year-term for the violation, was sentenced to 2-5 years in the city's prison work release program.

The sentence enabled Washington to work at an outside job during the day as long as he returned to prison each night. He was paroled in July 1981.

Reached yesterday by telephone, Della Porta described the October 1978 robbery Washington committed as a "lovers' spat." The judge said Washington had given a diamond ring to his girlfriend, but later demanded it back after the couple quarreled. When the woman refused to return the ring, Washington stole it from her, Della Porta said.

Rendell, contacted by the Daily News, criticized both Della Porta and Shiomos for their handling of the suspect.

"Unfortunately and tragically, if this defendant is proven guilty of these charges, this appears to be another example of how citizens pay dearly for the weaknesses of our criminal justice system," Rendell said. "The original sentence of probation for a homicide was totally inappropriate, but the subsequent actions of Judges Della Porta and Shiomos when they failed to give substantial sentences after the individual had been convicted of robbery makes no sense. It could have directly led to this tragedy.

"If either of the judges incarcerated this individual for a period of even three years, he would have been in jail the night of Feb. 15 [rather than on the street]."

Della Porta said the last time he saw Washington was last Christmas when the convict stopped by his City Hall chambers to asked if the judge would conduct a marriage ceremony for Washington and his girlfriend.

"He came to me around Christmas and asked me to marry him," Della Porta said. "I thought it was a success story. Here was a kid who went to jail and completed his high school education while in jail and comes back to me to marry him."

[From the Philadelphia Inquirer, Mar. 12, 1982]

THREE SLAIN AT SMOKIN' JOE'S KORNER

(By Robert J. Terry and Michael D. Schaffer)

Three people were shot to death early yesterday afternoon in an apparent robbery attempt at a City Avenue restaurant owned in part by former heavyweight boxing champion Joe Frazier.

Two of the victims were employees of Smokin' Joe's Korner at 51st Street and City Avenue, three blocks from the St. Joseph's University campus, in the Wynnefield section of Philadelphia, police said. The third was a postal carrier who apparently walked in on the holdup, they said.

The bodies were discovered at 1:30 p.m. by George Figueroa, 38, co-manager of the restaurant and husband of one of the victims, as he arrived for work.

The employees' bodies were inside a walk-in freezer in the kitchen, police said. They were identified as co-manager Mary Figueroa, 38, of the 200 block of Merion

Road, Merion Station, Montgomery County, and Eugene Jefferson, 35, a kitchen helper, of the 200 block of North Vodges Street.

The body of Peter Santangelo, 23, of the 900 block of Kenmore Road in West Philadelphia, wearing his postal uniform, was found several feet inside the restaurant's main entrance on 51st Street, police said.

All three had been shot in the right side of the head, according to police. Preliminary autopsy reports showed that all three had been killed with .38-caliber bullets, said Dr. Robert Catherman, Philadelphia deputy medical examiner.

Two other employees were found dazed but unharmed in the freezer, police said. They were identified as Pierre Blassigame, 22, and Renard Mills, 22, both kitchen helpers. Both were taken to the police Administration Building at Eighth and Race Streets for questioning, police said.

Figueroa discovered Santangelo's body after unlocking the restaurant door, police said. "The mailman walked in, heard what was going on, and tried to run for the door," Detective John Peterson Jr. said.

Frazier was at his Joe Frazier Gym on the 2900 Block of North Broad Street in North Philadelphia when the attempted robbery occurred, a spokeswoman for Frazier said. He arrived at the restaurant shortly after 2:20 p.m. and remained about 25 minutes. He declined to comment on the shootings.

Based on their questioning of Blassingame and Mills, police gave this account of what happened:

Two men entered the restaurant at about 1 p.m., apparently through the kitchen door. The restaurant does not open until 4 p.m., but employees are there earlier in the day to set up tables and receive deliveries.

Blassingame and Mills were working in the kitchen. Mrs. Figueroa was doing bookkeeping in the restaurant office. Jefferson was cleaning in the bar area.

One of the men told Blassingame, "Don't move," and he put Blassingame and Mills in the freezer. The men, one of whom Mrs. Figueroa apparently recognized, then ordered Jefferson and Mrs. Figueroa into the freezer.

The men then went to the safe, which was empty and open when officers arrived. Detectives said they had not yet been able to determine if anything had been inside it.

After rifling the safe, the two men returned to the freezer and opened fire, apparently for no reason, killing Mrs. Figueroa and Jefferson.

"Somebody knew the layout," one detective speculated, "We don't know if they ever worked there, but they could have been supplied information."

Santangelo was apparently shot when he walked in on the robbery, police said. His postal jeep was parked on the north side of 51st Street just below City Avenue, about 25 yards from the main door.

Santangelo was a substitute carrier assigned to the West Park Station who did not deliver regularly to the restaurant, police said. He was a graduate student at St. Josephs University, according to detectives.

Witnesses saw two men leaving the restaurant and running into a nearby wooded area, police said. They said witnesses told them both suspects were wearing red ski masks. One was described as black, in his 20s, 5-foot-1, weighing 170 pounds and wearing a blue jump suit, police said. The other suspect was described as black, 6-foot-1, weighing about 175 pounds and wearing blue coveralls.

A busload of police was sent to the scene and began a search of the neighborhood, police said. U.S. postal inspectors and FBI agents were also sent to the scene, because of the attack on the mail carrier.

More than 200 onlookers crowded around the restaurant as word of the killings spread. Traffic slowed on City Avenue as motorists gawked at the scene.

Postal carrier Vincent Toles, 25, walked into the parking lot shortly after the bodies were discovered and kept saying, "Oh, no, I hope it's not Pete." He began to cry when informed that Santangelo had been killed.

Toles said Santangelo was "a nice guy and a good friend of mine."

Members of the victims' families arrived at the restaurant to identify the bodies. They left in tears.

Frazier is one of several owners of Smokin' Joe's, which opened in December 1980 as the first of a projected line of nightclub-restaurants. The restaurant specializes in ribs, steaks, barbecued chicken and shrimp.

Frazier, a longtime Philadelphia-area resident, won the heavyweight championship in 1970 and cemented his hold on the crown in 1971 with a victory over Muhammad Ali. He lost it to George Foreman in 1973.

[From the Philadelphia Daily News, Mar. 15, 1982]

A PERENNIAL VICTIM, SHE WON'T SURRENDER

(By Kathy Sheehan)

It's not that she's not careful. In fact, 82-year-old Catherine A.M. Botto has used all kinds of ruses to deter muggers, including pinning her money to her dress pocket and crossing the street when any suspicious-looking person approaches. Nevertheless, the Center City resident was robbed for the 12th time in less than 24 years Saturday.

This time, a thief grabbed her pocketbook as she walked up the steps at St. Peter Claver Catholic Church at 12th and Lombard streets for noon mass.

The robbery happened so quickly that even the pastor, the Rev. Francis X. Schillo, was hardly aware he was witnessing a crime. "It actually was going on, and I didn't realize it. It happened so fast," Schillo said.

Saturday's thief only got $2 in change, the woman said, and her pocketbook was later found in the street. But, she said, "I'm scared to death. The thought of going out just terrifies me."

Botto, who has lived in Center City for 24 years, has lost her wallet to thieves on buses, at the St. Patrick's Day parade two years ago and in a revolving door in a department store.

The worst time, however, was the first, when three young men grabbed her purse and threw her to the ground in front of her apartment building.

Just recently, "For the first time in my life, I said, I'll put my wallet in my pocket instead of my pocketbook," she said. It didn't do any good. As she entered a department store, a pickpocket put a hand in her coat pocket and took the wallet.

Botto insists she is wary of robbers. She barricades her apartment door with a shopping cart and a suitcase so she'll hear the noise if someone tries to break in, avoids going out after dark and avoids approaching strangers. "You just never relax. One day, I had four encounters," she said. That day, she escaped robbery, but not the fear.

"The first boy, about 16 years old, said, 'I want your pocketbook.' He mumbled that, but didn't take it," she said. Then a young woman shook her up by grabbing her chest. A boy pushed her in the stomach, and a tall girl planted her hands on her shoulders, she said.

"It's really tragic," she added.

Botto, who suffers from arthritis, diabetes and cataracts and who walks with a cane, won't be cowed into staying inside, however.

Asked if she attended regular Sunday mass at the church the day after the most recent robbery, she answered: "Oh, sure! What do you think I am? A heathen?"

THE PHILADELPHIA COUNCIL OF NEIGHBORHOOD ORGANIZATIONS: SUMMARY OF CRIME AND SAFETY HEARINGS IN SEVEN SECTIONS OF PHILADELPHIA

Southwest Philadelphia (March 4, 1978)	West Philadelphia (April 1, 1978)	Kensington (April 22, 1978)	South Philadelphia (June 3, 1978)	Germantown (July 25, 1978)	North Central Philadelphia Nov. 1, 1978)	Northeast Philadelphia (Jan. 26, 1979)
1. Youth (drugs, alcoholism, harrassment, robbery)	1. Neighborhood Involvement	1. Neighborhood Involvement	1. Youth	1. Youth	1. Youth	1. Youth
2. Women (rape marital abuse, purse snatching).	2. Police and Safety	2. Police	2. Homes & Property	2. Police	2. School Issues	2. Neighborhood People
3. Neighborhood Bars & State Stores (panhandling, noise, youth purchasing liquor)	3. Robberies & Burglaries	3. Youth	3. Attitudes of People	3. Families& Neighbors	3. Family Issues	3. Police
4. Courts & DA's Office (victims treated poorly, probation too easily given)	4. Purse Snatching	4. Courts	4. Police	4. Courts	4. Apathy of People	4. Courts
5. Police (response poor, need foot patrols)	5. Youth	5. Elected Officials	5. Changing N'hood Attitudes & Tolerance	5. Non-reported crimes	5. Courts System	5. Drug Problems
6. Business crimes	6. Senior Citz.	6. Drugs.	6. Elderly	6. Burglaries,	6. Senior Citiz.	6. Proposals for Change
7. Elderly	7. Rape	7. Burglaries	7. Domestic Violence	7. Sex crimes	7. Police	7. Sex Crimes
8. Homes & Property	8. Crime Stats.	8. Victims	8. Judic. System	8. Lighting	8. Housing	8. Burglaries
9. Domestic-Family	9. Mail Thefts	9. Schools	9. Other Problems	9. Elderly	9. Elected Offic.	9. Victims of Crime
10. Causes & Solutions	10. Other crimes	10. Women		10. Other crimes.	10. Robberies & Burglaries	10. DA's Office

Above is the ranking of 7 areas of Philadelphia of those neighborhood problems and crimes which have tended to create a sense of insecurity and a set of problem which neighborhood people must face each day. These problems and issues are in striking contrast to the federal categories of major and minor crimes. Ranking was based upon the number of times the topice, issues or problems were raised.

DISTRICT ATTORNEY'S OFFICE
1300 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19107

EDWARD G. RENDELL
DISTRICT ATTORNEY

SENTENCING REPORT

Date: August 24, 1981

Prepared by:
William P. Phipps

Defendant	: Raymond L. Johnson	Police Photo #	: 497747
Case No.	: CP 8102-1766-1772	Date of Birth	: 9-18-57
Convicted	: 7-6-81	Judge	: Abraham J. Gafni
Jury_____	: Waiver X	Defense Atty.	: Albert Cepparulo
Convicted of	: Bill #1766 Robbery (F-1) 1772 Crim. Conspiracy	Assistant D.A.	: Henry Hart
		Sentencing Date	: 9-8-81

FACTS OF PRESENT CASE (CP 8102-1766)

On July 18, 1980, Raymond Johnson and Leonard Brodie committed an armed robbery at McDonald's Restaurant, 6001 Lancaster Avenue.

Shortly after 1 a.m., the manager, James Moses, had locked the restaurant and was walking to his car in the parking lot. Brodie, armed with a handgun, and Johnson confronted the manager and demanded that he open the rear door. He replied that he could not open either the rear door or the side door from outside. They walked him to the front door, which he opened with his key. This act triggered an intrusion alarm signal at Holmes Protection Co., which then automatically generates a call to Police Radio.

As Moses was opening the front door, one of the robbers hit him on the side of his head. In the office area at the rear, he was forced to open the safe. The robbers became infuriated as the neverous manager kept fumbling with the combination lock; one of them hit him in the mouth with his fist, knocking off Moses' glasses.

As the door of the safe opened, Mosed was pushed to the floor. Johnson and Brodie reached in an pulled out the money drawers. They then forced Moses into a bathroom.

City of Philadelphia

SENTENCING REPORT
Defendant: Raymond Johnson

Date: August 24, 1981

DISTRICT ATTORNEY'S OFFICE

FACTS OF PRESENT CASE (cont.) (CP 8102-1766)

Responding Police Officer Thomas Smith found the front door of the restaurant open. Inside, hiding under a table, he spotted Leonard Brodie. When Brodie stood up, as ordered, Officer Smith saw the gun on the floor which had been used in the robbery. It was a .22 cal. Iver Johnson revolver, loaded with two live rounds.

Additional responding officers stopped a 1978 Olds as it attempted to leave the lot. At the wheel was Reginald Johnson. Sgt. Thomas McElroy found a McDonald's blue bank bag on the front seat, along with a brown leather holster. The bag contained $971.22. Both Johnson and Brodie were ID'd by Moses as the robbers.

On July 6, 1981, Raymond Johnson entered open pleas of guilty to Robbery and Criminal Conspiracy.

At the time of this arrest for this robbery, both Johnson and Brodie were on Federal parole for Bank Robbery; they had served time together at the Federal Correctional Inst. at Perersburg, Va.

Sources: 1. Police Report 75-49, prepared by Det. John Peterson, dated 7-18-80.

2. D.A.'s File, CP 8007-2042 (deft: Leonard Broadie.

City of Philadelphia

SENTENCING REPORT
Defendant: Raymond Johnson

Date: August 24, 1981

DISTRICT ATTORNEY'S OFFICE

ADULT CRIMINAL RECORD

Date of Arrest (Place) [Case No.]	Charge	Disposition	Judge (Date of Disposition)
12-31-74 F.B.I. (Phila.)	Bank Robbery	SEE SUMMARY OF CONVICTIONS, P. 6 (Fed. Docket 75 CR 879)	———
3-1-75 F.B.I. (Phila.) [Fed. Docket 75 CR 879]	Bank Robbery (6 cts.) Armed Bank Robb. (6 cts.)	Pled Guilty 4 cts., Bank Robb. Other cts. dismissed. Sentence: 10 yrs. confinement, each of 4 cts., concurrent.	I.B. Wyatt (10-31-75) U.S. Dist. Ct., So. Dist. of N.Y.
	(SEE SUMMARY OF CONVICTIONS)		
1-2-80 (Phila.) [MC 7912-3170]	Know/Poss. Cont. Substance	Pros. Withdrawn	Gordon (1-3-80)
7-18-80 (Phila.) [CP 8102-1766]	Robbery (F-1) Conspiracy	INSTANT CASE	Gafni
1-14-81 (Phila.) [MC 8101-0947]	Firearm w/o Lic.-Auto Carry F.A. Pub. St./Place P.I.C. P.O.W.	OPEN CASE	

City of Philadelphia

SENTENCING REPORT
Defendant: Raymond Johnson

Date: August 24, 1981

DISTRICT ATTORNEY'S OFFICE

ADULT CRIMINAL RECORD (cont.)

Date of Arrest (Place) [Case No.]	Charge	Disposition	Judge Date of Disposition)
2-13-81 (Phila.) [CP 8103-2188]	Robbery Theft R.S.P. Carry F.A. Pub. St./Pl. R.E.A.P. Terr. Threats P.I.C.	OPEN CASE Deft. indicted (5-19-81) in U.S. Dist. Ct. for this 7-18-80 Post Office robbery. Docket No.: CR 81-160. To be nolle prossed by D.A.	U.S. Dist. Court, East. Dist. Pa.
	(SEE SUMMARY - OPEN CASE)		
3-19-81 (U.S. Marshall, Phila., Pa.)	Bank Robbery	Pros. withdrawn	U.S. Dist. Court, East. Dist. Pa.

City of Philadelphia

SENTENCING REPORT
Defendant: Raymond Johnson

Date: August 24, 1981

DISTRICT ATTORNEY'S OFFICE

SUMMARY OF CONVICTIONS

ARREST OF 8-1-75, (Docket 75 CR 879)
SENTENCE OF 10-1-75: Bank Robbery (4 cts.)

The following paragraphs were contained in the government presentence report dated October 28, 1975, compiled by U.S. Probation Officer James Dean.

> "During 1974 and 1975 there was a ring of young Philadelphia Black Muslims who were involved in a large number of bank robberies in New York, New Jersey, and Philadelphia. This ring numbered between 40 and 60 members, and the participants would usually rob a bank in groups of 3 to 6.
>
> The six bank robberies listed in the indictment occurred between October 1974 and August 1975, and netted the perpetrators approximately $82,000. In each case, a group of robbers entered the bank and displayed weapons, or what appeared to be weapons, during the commission of the robbery. With the exception of the August 1, 1975 bank robbery, in which two individuals were slightly injured (they were not shot), there were no physical injuries during the bank robberies.
>
> Based on bank surveillance and F.B.I. investigation, the Magistrate in early July issued a warrant charging Johnson with participating in the robbery of June 5, 1975. On August 1, 1975, a Chase Manhatten Bank on Third Avenue in Mnahatten was robbed by a group of young men. Learning that Johnson was on his way back to Philadelphia by train, F.B.I. agents met the incoming train in Phila. and placed him under arrest.
>
> After his arrest, Johnson admitted under questioning by F.B.I. agents that he participated in the bank robbery on August 1, and approximately sixteen other bank robberies over the previous year. He indicated he would usually be contacted by others who would instruct him to go to a certain location - usually a hotel room in New York, with regard to the New York

City of Philadelphia

Date: August 24, 1981

SENTENCING REPORT
Defendant: Raymond Johnson

DISTRICT ATTORNEY'S OFFICE

SUMMARY OF CONVICTIONS

ARREST OF 8-1-75 (cont.)

> robberies. He would arrive the day before the robbery and meet with the others. After the robberies, they would return to Philadelphia and divide the proceeds.
>
> Johnson informed F.B.I. agents that he began participating in the robberies in the later part of September 1974 and continued until the time of his arrest. In every job he participated in, he vaulted the counter, and added that at no time did he use a real gun. On some occasions, he carried a toy gun."

Raymond Johnson (D.O.B. 9-18-57) was certified as an adult in U.S. District Court on 8-28-75. He was indicted on six counts of Bank Robbery and six counts of Armed Bank Robbery (18 U.S.C. 2113 (a) and 2, 18 U.S.C. 2113 (d) and 2). The dates of these six robberies of federally insured banks in the Southern District of N.Y. were: 8-1-75, 6-5-75, 12-30-74, 12-13-74, 12-4-74, and 10-29-74.

On 9-22-75, the defendant, one of the group popularized at the time as the "Metroliner Robbers," pled guilty before the Honorable Inzer B. Wyatt, U.S. District Court, Southern District of N.Y., to four counts of Bank Robbery. The remaining eight counts were dismissed.

Judge Wyatt, on 10-31-75, sentenced Johnson, under the Youth Corrections Act, to 10 years incarceration on each of the four counts, to run concurrantly.

The defendant served this sentence at the Fed. Correctional Institute at Petersburg, Va. until 6-20-79, when he was transferred to a half-way house in Camden, New Jersey, administed by the Volunteers of America. He was paroled approximately two months later, on 8-17-79.

Re: ARREST OF 12-31-74

> "On December 31, 1974, a group of young males robbed a bank in Newark, N.J., of $13,272. Several individuals, including Raymond Johnson, were arrested in connection with that robbery. Johnson was arrested

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SUMMARY OF CONVICTIONS

ARREST OF 8-1-75 (cont.)

> that same date (12-31-74) in Philadelphia, and admitted the robbery to the agents. He also surrendered a bag containing $4500 from the robbery, two loaded revolvers, and a toy silver automatic pistol. Further, he admitted carrying a real gun during that robbery.
>
> On January 2, 1975 a Magistrate's Complaint was filed, charging Johnson with juvenile delinquency in connection with the bank robbery of Dec. 31, 1974. It had been verified that his date of birth was 9-18-57 in Philadelphia and thus he was 17 at the time of the bank robbery. Johnson was held in custody until 1-27-75 when he was released on a $5000 personal recognizance bond because the government could not conduct a trial within 30 days, as required by the Juvenile Delinquency Statute. F.B.I. investigation during January of 1975 tied Johnson to four bank robberies: 12-4-74 and 12-30-74 in New York City - the subjects of Counts 5-6 and 9-10 of the present indictment; robberies of 12-16-74 and 12-31-74 in District of New Jersey. Subsequently, F.B.I. investigation has developed Johnson as a suspect in a bank robbery in Camden N.J., on 11-22-74.
>
> Johnson was released on bail on 1-27-75 and thus was on bail at the time of the robberies constituting counts 1-4 of the present indictment. The Magistrate's Complaint charging juvenile delinquency in the District of New Jersey with respect to the December 31, 1974 bank robbery is still open."

The defendant's Federal parole file provides no further information concerning this arrest for the Newark robbery. Presumably, no further action was taken, in view of his subsequent arrest, conviction and sentencing for the New York robberies.

Sources: 1. Federal Probation File #000125-158 (Raymond Johnson).

2. Katy Lynott, U.S. Prob./Parole Officer, U.S. Courthouse, Philadelphia, Pa.

City of Philadelphia

SENTENCING REPORT
Defendant: Raymond Johnson

Date: August 24, 1981

DISTRICT ATTORNEY'S OFFICE

SUMMARY OF OPEN CASE

ARREST OF 2-13-81, (Fed. Docket No. CR 81-160)

On February 31, 1981, Raymond Johnson was arrested by Philadelphia police and charged with the armed robbery of the U.S. Post Office at Meadow and Darrah Streets on 6-20-80.

At 1 p.m. on that date, Dineen Cunningham and Georgia Coates were on duty as cashiers behind the counter of the Post Office. A negro male approached the counter; Cunningham asked if he could help. Suddenly, Cunningham related, a second man jumped "in a vaulting motion over the counter." This second man was allegedly Reginald Johnson. He pointed a blue steel revolver at the postal employees and ordered both victims to "Get down on the floor." After taking approximately $500 from a cash drawer, Johnson and his unarmed companion withdrew. Before leaving, Johnson warned the cashiers, "Don't move until an orange car goes by."

John D'Annunzio was performing concrete masonry work nearby. He stated to assigned detectives that he had seen a late model maroon Oldsmobile speeding north on Darrah Street. The car was occupied by two well-dressed Negro males.

On 12-30-80, Georgia Coates was shown an array of police photographs by Det. M.P. Stanton. She identified the picture of Johnson as the robber who was armed with the gun. On 12-31-80, Det. Stanton obtained an arrest warrant for Johnson, but was unable to locate the defendant. Finally, Stanton was notified that Johnson was in the Detention Center under the name Raginald Johnson; he was incarcerated there subsequent to his arrest for possessing a gun on 1-14-81.

The Philadelphia District Attorney initiated prosecution and the defendant was subsequently held for Court. Jurisdiction was transferred to the U.S. Attorney and Johnson has been indicted in U.S. District Court in Philadelphia, on 5-19-81.

Sources:
1. Police Report 75-49, prepared by Det. John Gallo, dated 6-20-80.
2. Police Report 75-49, prepared by Det. M.P. Stanton, dated 2-16-81.
3. Fed. Probation File #000 125-158 (Raymond Johnson).

To: Michael Stiles, Deputy Trial Division.
From Ron Castille, Career Criminal Unit.
Re: *Commonwealth* v. *Robert Carroll* CP 8005-664, et cetera.

This matter was picked up as a Career Criminal Case following the arrest of the defendant after he was spotted by one of his victims on the street. A record check by the police department showed that the defendant had two prior robberies and a rape, and the detectives notified me of his arrest with our radio pager. Following the history of the case as it progressed through the courts, eventually the defendant received a total sentence of 110-220 years in jail, and he still has an open sentencing scheduled. The sentencing judge was Judge James McCrudden.

HISTORY OF THE CASE

In 1979 and 1980 the Philadelphia police and the Housing Authority were attempting to apprehend a person who was committing a series of crimes against Housing Authority tenants and other people in the North and West sections of the city. The crimes were all of the exact same pattern. Carroll would either identify himself as an exterminator or as an electrician sent by the Housing Authority or whatever management company had their sign on the apartment. He had both exterminating equipment and electrician tools and he would actually perform services in the houses. When he would find a lone female present in the house, he would then produce a pistol and announce a robbery, and would then tie up the women and ransack the house. One can only speculate how many times the defendant did this over the two year period, but it must have been in the hundreds. Eventually, he was identified by 33 women and charged in 31 separate cases. We proceeded to trial on 12 of the incidents and the defendant received three trials: one for five incidents posing as the exterminator; one for six incidents posing as an electrician; and one single incident where he committed sexual acts on the complainant. All trials resulted in findings of Guilty.

ARREST OF THE DEFENDANT

This case broke in April of 1980 when one victim spotted the Defendant on the street by accident and immediately notified a nearby police officer who arrested him. He was searched and they found the gun that was identified as being used in all the robberies and they also found a police scanner that would notify the defendant of the approach of any police. When the police found this man they suspected that he might be the one they were looking for and they checked their records and found that one of his prints had turned up at a crime scene and he was arrested and charged with that. The police then notified me, and asked for my assistance in how to legally handle the situation. I set the preliminary hearing for 10 days on the two matters and directed the police to notify all possible complainants for identification procedures. The story was released to the television media and I instructed the police to omit any photographs of the defendant in the news story and radio releases. The police were further instructed to set up a photo array of twenty-four photos and to show only this array to the prospective complainants. I also instructed the police on the drawing up of two search and seizure warrants for the defendant's two known residences where the police found various pieces of evidence that were identified as being stolen during many of the robberies.

A line up was scheduled after people successfully identified the defendant in the photo array and I had an attorney appointed through personal contact with Court Administration since the defendant had none and there was a conflict of interest with the Public Defenders' Office. (One of the victims was an employee of that Office.) I went to the lineup with the detectives and twenty-six victims present and I represented the Commonwealth at this procedure.

Once the lineup was over, I handled the preliminary hearings on the original arrest and the job where the fingerprint was found. Our unit then arranged with court administration for a special court session for the remaining preliminary hearings and we were given a protracted courtroom and two days of court for all the rest of the matters. Eventually twenty-nine separate incidents were held for court.

TRIAL OF THE CASE

A motion to consolidate all the matters for a single trial was filed with Judge McCrudden, and in an excess of caution, he denied it, but he did allow six incidents to be consolidated for a single trial where the defendant was an exterminator and he allowed five incidents to be consolidated for trial where the defendant was an electrician. The defendant was extremely recalcitrant in the first trial and refused to cooperate, so no defense was offered, nor were any questions asked by the defendant or his backup counsel. The defendant was convicted of all counts. In the second trial, he did cooperate with counsel and after a full blown trial, he was convicted of all counts. A third trial was held because of the sex crimes which seemed to be out of character with the *modus operandi*, and he was convicted by a jury in front of Judge McDermott.

A full array of pre-trial motions was heard, and not one piece of evidence was suppressed, and none of the identifications were suppressed. The police department cooperated with my instructions in every way and I was in almost constant contact with them at the initial early stage and for all procedures after that, and they in turn would call me for any questions they had concerning all aspects of the case, since I had the matter from start to finish.

DEFENDANT'S PRIOR HISTORY

The defendant had just been released in 1978 after doing 14 years in jail on a twenty-four year sentence. He was convicted of a Burglary in 1962 and received a short sentence. He committed two robberies of private homes in Chestnut Hill, wherein which he entered the homes at gunpoint and robbed the people there and in one incident he raped the woman present. He had been in constant contact with the law since he reached his maturity.

The defendant is now approximately 45 years of age. An interesting footnote to the case is that the defendant learned to be an electrician while serving his prison sentence and he learned to be an exterminator while on parole after the parole department enrolled him in a vocational education program.

[From the Philadelphia Inquirer, Mar. 13, 1982]

JUSTICE POSTPONED: CALIF. D.A. ASKS BAD GUYS TO HOLD OFF A BIT

(By Steve Harvey)

UKIAH, CALIF.—Like some hardnosed sheriff of the Old West, Mendocino County District Attorney Joseph Allen recently had handbills printed and addressed to "thieves, thugs, con-men and other criminals."

But he wasn't issuing a threat to the bad guys. Allen was asking for their patience.

"Please be advised." the handbills said. "The district attorney's office has run out of funds to prosecute you for your crimes until July, 1982.

"Therefore: Please postpone the commission of all crimes which are not urgent until after that date. Thank you."

Allen, 37, who is anything but shy although he is retiring after this term, says he was forced to make the treaty offer to the criminal community after his budget had been cut by $25,000 and his subsequent requests for funds were ignored.

"Finally, I was prosecuting a murder trial in the second week of February and the auditor told me I was overdrawn," he said one day recently in this scenic Northern California town.

"I had no money to pay for anything—court reporters, witnesses expenses. . . . If you don't pay witnesses. they don't come. I was out of business. So, this being an aggressively Western community, I took this approach to the handbills."

Instead of posting them at the entrances to every town in the county. Allen mailed them to several newspapers. On the day one handbill was published in a local paper, the county supervisers allocated Allen's office $15,000.

"I guess it was effective." he said, "I was trying to use a little humor. Some officials take themselves too seriously."

No laughter was heard in the supervisors' offices.

"What I resent," said supervisor Dan Hamburg, "is that he gave the impression that the D.A.'s office was going to shut down and we weren't properly attending to the situation. We hadn't seen any requests from him for contingency fund transfers. And besides, it was only $15,000."

Hamburg couldn't stifle a laugh in spite of himself, however.

"But that's just Joe." he added in a not-unfriendly tone. "He's sort of prone to the limelight. He likes to shoot pool and drink beer."

"I do like to shoot pool and drink a couple of beers," Allen cheerfully confirmed later that evening at the Forest bar across the street from the county courthouse.

A 1978 campaign poster still on the wall showed Allen lining up a pool shot in a dimly lit bar (the Forest) and proclaimed: "Put crime in the side pocket. Allen for D.A."

LIVINGSTON, N.J., *July 27, 1981.*

Mr. EDWARD RENDELL,
District Attorney,
Philadelphia, Pa.

DEAR MR. RENDELL: Last February, our nineteen year old daughter, Sandra, had the most traumatic experience of her young life. She was raped. As parents, you can imagine our emotional state when we were informed of the news.

We arrived in Philadelphia from our home in North Jersey early that morning and were met by officers Carol Keenan and John Merritt of the police Sex Crime Unit. They were both helpful to us and our daughter. It is, however, the Rape Unit of your office that is the subject of this letter.

Our first encounter with the District Attorney's Rape Unit was with Ms. Judy Greis. She was very informative, helpful and understanding in our initial telephone contacts and especially during the preliminary hearing. We were next introduced to Mr. Allan Reisch, your Assistant D. A. who handled Sandra's case. Our daughter was extremely frightened of appearing as a witness at this trial and detailing her horrible experience. Several times, Sandra told us she was terrified and we got the feeling she wanted to escape this ordeal. It was the sincere concern displayed by Mr. Reisch and his supervisor, Mr. William Heiman, that instilled in her the confidence and courage to appear at the trial. They assured her that they would see to it that she would be "treated like a lady" and not humiliated or badgered by the defense attorney.

Your Assistant D. A. showed understanding and concern for our daughter's well being. He spent many hours talking to her and to us which helped allay our fears. On several occasions this extended past his dinner hour. At the trial itself, we thought Mr. Reisch handled the case superbly. Although we are not trained in legal matters, as laymen, we thought he did an excellent job and for us this was confirmed when the rapist was convicted.

We also wish to make you aware that the head of your Rape Unit, Mr. Heiman, played a part in relieving our daughter's anxiety. His talks with Sandra and his periodic appearances in the courtroom helped immensely.

It seems to us that having a special Rape Unit in the District Attorney's Office, results in a greater percentage of convictions of rapists and their subsequent removal from society. We believe this is accomplished because this special unit has the expertise to not only successfully prosecute the rapist, but to allay the fears and anxieties and ease the emotional stress of the victim. A less fearful and more confident witness makes a better witness and leads to a more successful prosecution.

From our daughter Sandra and ourselves, our many thanks to the Rape Unit of your office and especially to Mr. Reisch, Mr. Heiman and Ms. Greis.

Sincerely yours,

EVELYN PORTNOY.

[From the Evening News, Mar. 9, 1982]

CRIME "MORE IMPORTANT" THAN WAGES OR TAXES IN BUSINESS SHIFTS

PHILADELPHIA (AP)—Businessmen say crime is a more important factor than wages or taxes in their decision to relocate, according to a new corporate study.

A total of 50.2 percent of high-ranking executives rated an area's crime rate as "a very important consideration" in deciding to move elsewhere.

In fact, only 10 percent of the companies responding to a First Pennsylvania Bank survey said they considered other factors—such as taxes and wages—more important than crime in selecting a new site for their operations.

First Pennsylvania released the results of the survey Monday, based on the answers of 332 of its 700-member board of contributors in the Delaware Valley.

Approximately 68 percent of the businesses—including 78 percent of Philadelphia respondents—reported that they had been victimized by crime during the past two years.

The survey defined five areas of crime—burglary, larceny and theft; arson; white-collar crime, fraud and embezzlement; vandalism; and crimes against individuals employed by the businesses.

Businesses said theft and vandalism were the two most prevalent forms of crime they had encountered.

"Medium and larger companies ($5 million or more in gross sales) reported a greater incidence of crime than smaller companies," said First Pennsylvania corporate economist Kenneth Mayland. "Companies engaged in construction, retail trade, finance, insurance and real estate were also especially impacted.

"Least affected, on the other hand, were companies engaged in durable goods manufacturing," he said.

Companies responding to the survey said their average annual loss to crime was $22,900, and that they spent an average of $62,600 a year on crime prevention.

According to the bank report, businesses across the country spent about $24 billion fighting crime in 1978, the last year for which statistics were available. Mayland estimated the cost could climb to $35 billion this year.

He said companies in Pennsylvania, New Jersey, Delaware and Maryland had spent more than $2.7 billion on crime prevention in 1978.

Mayland attributed the increase in crime to several factors, including the perception by criminals that the chance of getting caught is slim.

He said a high unemployment rate, a lack of education and discrimination also contributed to the high crime statistics.

Senator SPECTER. Thank you very much.

I will now hear from the Commonwealth Attorney for Louisville, Hon. David L. Armstrong.

Mr. Armstrong, we very much appreciate your taking time from your very heavy duties as Commonwealth Attorney.

You are president of the National District Attorneys' Association. You served as a member of the Attorney General's task force on violent crime. You have experience as an administrative law judge, hearing officer, and juvenile court judge in Louisville, and you have that impressive list of accomplishments at a very young age, being 40 years old at the moment. That is a very impressive résumé.

I know that your educational background shows Harvard Law School, the College of Trial Advocacy, and your law degree from the University of Louisville School of Law, and your bachelor's degree from Murray State University.

We will include the full list of credentials in the record. We do welcome you here and look forward to hearing your testimony.

STATEMENT OF DAVID L. ARMSTRONG, COMMONWEALTH ATTORNEY, LOUISVILLE, KY., AND PRESIDENT, NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

Mr. ARMSTRONG. Thank you, Mr. Chairman.

I apologize if I sound like I'm speaking from a well We have a disease we call in the Louisville area, the Ohio Valley crud. I think I am suffering from that malady, and I apologize if I am not distinctly speaking in my normal clarity.

Mr. Chairman, I appreciate the opportunity to appear before this committee to speak for over 6,000 members of the National District Attorneys' Association.

At the outset, I would like to commend you, Mr. Chairman, and other members of this committee for your efforts on behalf of the frightened, law-abiding citizens of America.

By some estimates, crime and delinquency costs us $125 billion each year. It is demoralizing an entire Nation and is forcibly and drastically altering a cherished lifestyle of this Nation. Crime is literally threatening our existence as a free civilization.

According to figures issued by the U.S. Department of Justice, almost one-third of the homes in America were victimized last year and 23,000 citizens were killed by criminals in this country.

If the Center for Disease Control in Atlanta should report that a sudden illness would strike one-third of the households in America at a cost of $125 billion and that 23,000 people would die from this malady, the President would declare a national emergency, the Congress would meet in joint session, and the great bipartisan response would rival the reaction of the President and Congress when Japan bombed Pearl Harbor in 1941.

If local or foreign terrorists should wreak this havoc on our society we would be outraged, and we would surely mount a response designed to immediately eradicate the perpetrators.

From this perspective, it is rather strange that the outrages suffered by our citizens at the hands of criminals are being virtually ignored by this administration and this Congress.

The national crime epidemic is being called a "local" problem. While the primary response to criminal activity must come from local criminal justice agencies, the characterization of crime as a local problem for which the Federal Government has no responsibility is an affront to every law-abiding citizen in this Nation.

Last Thursday evening I presented the tearful widow of a slain south Florida prosecutor a small posthumous token of our appreciation from the National Association for her husband's fight against drug dealers. It is difficult to tell the prosecutor's widow and the people in Miami and other coastal Florida communities that the invasion of their neighborhoods by purveyors of illicit drugs is a "local" problem calling for local solution.

Crime in this country is clearly a national problem that requires a national initiative and national leadership. It also requires significant national financial assistance.

The Attorney General's task force on violent crime completed its work last August. I was pleased to serve as the only prosecutorial member of that task force.

Members of the task force entered upon their duties with an awareness of the prevailing economic conditions in this country. We were also aware of the administration's pledge to take aggressive steps to reduce Federal spending. We knew that any recommendations calling for significant Federal expenditures would not be acceptable to the administration. Consequently, our report offered a blueprint for Federal participation in America's war on crime which would require minimal Federal appropriation. Despite the fact that this task force report was, for the most part, viewed favorably by the White House, we have seen little initiative for the accomplishment of the task force recommendations.

In addition to the recommendations contained in the report of the Attorney General's task force on violent crime, there are several areas where the Federal Government must get involved immediately and where, apparently, the Congress, and perhaps this committee, must provide the leadership.

A massive Federal effort must be lauched immediately in drug enforcement and education. The interdiction of illicit drugs from foreign soil is clearly a Federal responsibility and that effort must be enhanced by a clear and strong enunciated foreign policy. The recent allocation of additional Federal law enforcement resources to the Florida area, while laudable, is grossly insufficient.

In addition to an increased Federal effort in drug enforcement, it is not only appropriate but absolutely necessary that the Federal Government take an aggressive leadership role in drug abuse education. While a great reservoir of private resources will be available in this effort, a substantial commitment of Federal dollars will be required to guide our national and local efforts.

Another area where the expenditure of Federal dollars is necessary is in career criminal prosecution. I am pleased to have been one of the 12 district attorneys in America to have been selected by the Ford administration to receive one of the career criminal grants in America.

It is well known by criminal justice professionals that an inordinate percentage of crime is committed by the repeat, or "career," offender. Some estimates say that 60 percent of the crime in this country is committed by a career criminal nucleus of only 6 percent of the offender population. This being the case, it makes sense to target this segment of the criminal population for quick and decisive immobilization. Career criminal prosecution units have been tested and have proved amazingly successful at a cost relatively small compared to the severe impact that the career criminal has on our criminal justice system.

The Congress should make grant funds available to State and local agencies for career criminal programs through a system which aggressively seeks out appropriate candidates for career criminal program funds.

In view of the impact made by career criminals on the criminal justice system, the expenditure of Federal tax dollars to remove that criminal from our communities is a prudent investment of our tax dollars.

Another important way the Federal Government can make a significant contribution to the war on crime with relatively little outlay of Federal dollars is the relinquishment of unused Federal land and buildings for the housing of State prisoners. Although the President agreed to this approach following its recommendation by the task force on violent crime, little has been done to accomplish this goal.

Another specific area which requires immediate attention is bail reform. An appalling number of those arrested for committing major crimes are on bail awaiting trial or sentencing for a previously committed felony. This situation is an affront to the law-abiding members of the community and generally engenders disrepsect for our legal system. Leadership at the Federal level through congressional bail reform legislation will cost nothing. In addition to reforming the Federal system, it will encourage State legislatures to initiate reforms in the various States.

A number of the suggestions made here are addressed, to some degree, by the Justice Assistance Act of 1981—H.R. 4481—sponsored by Congressman William Hughes and passed overwhelmingly by the House several days ago.

Mr. Chairman, I would submit that the Justice Assistance Act of 1981 as passed by the House should be examined very carefully by you and this committee. As a former prosecutor, and as a Member of Congress who has taken a leadership role in criminal justice reform, you will recognize the need for most, if not all, the provisions of that act.

I would be happy to answer any questions you have.

Senator SPECTER. Are there any other specific programs you would cite as success stories from LEAA, beyond the ones you enumerated in your testimony?

Mr. ARMSTRONG. The store front sting operations so effective in Washington, D.C., as well as through the South and throughout the country, were so effective in the property crimes, that our community in Louisville had, and as a result of very effective sting operations, the following happened.

The Federal authorities began talking to the local authorities.

U.S. attorneys began talking with district attorneys. We began shopping for the best forums on concurrent offenses. If we could get the best bang for our bucks in the Federal jurisdiction, then we have that option from the sting operation to go Federally. We could not take it to the State or local forum.

But it brought us altogether. That was the only operation that I can recall after being in criminal justice for over 12 years, that is the only operation I can think of that really brought us together when we worked in tandem with each other.

Senator SPECTER. Brought the State prosecutors together with the Federal prosecutors?

Mr. ARMSTRONG. And State and law enforcement agencies as well.

Senator SPECTER. Is there a coordinating counsel in Louisville?

Mr. ARMSTRONG. Yes, we had a coordinating committee, we have had one for the past 4 years.

Senator SPECTER. Does it work well?

Mr. ARMSTRONG. It works fairly well. There is still the lack of cooperation that I would call from the Federal investigating agencies, the lack of sharing information.

Senator SPECTER. That is always going to be hard to do.

Mr. ARMSTRONG. It is.

Senator SPECTER. How about your cooperation with the U.S. attorney in Louisville, for example?

Mr. ARMSTRONG. We will have at the end of this month, three cross-designated cases. There will be three of my assistants prosecuting in the Western District Federal Court of Kentucky, and I think that is a good beginning.

Senator SPECTER. Is Louisville in the Western District?

Mr. ARMSTRONG. It is.

Senator SPECTER. It is pretty much in the center of the State, east-west, on the northern border, Western District?

Mr. ARMSTRONG. Western District in the very eastern edge of the Western District.

Senator SPECTER. You have two districts?

Mr. ARMSTRONG. Two districts in Kentucky.

Senator SPECTER. Has your experience been analogous to that identified by District Attorney Rendell on the coordination between his office and the Federal prosecutor?

Did you do anything, for example, with handguns as Mr. Rendell testified about?

Mr. ARMSTRONG. So much of the coordination depends on the personalities who hold the offices, not getting around that. There is no way you can regulate their—legislate how the U.S. attorney and the district attorney from an immediate area would get along.

We just have to work at it. And it takes work at it. I would say in the cooperation of investigations, be it Dole Act cases, Hobbs Act cases, whatever that brings us together, there is a need to sit down and share the information and begin working towards a coordinated effort.

As I mentioned earlier, not to be redundant, the sting operations brought that about and LEAA, if there were, I virtually have had every LEAA prosecutorial program in my office because I aggressively went out and sought those programs.

And I got our funding agencies to support them. But if I were to say that there were benchmark or a shining example of what LEAA did for law enforcement in my community, and I perceive it throughout the nation, it is when they brought together the sting concept, bringing together the Federal and local and State law enforcement agencies and prosecutorial arms and judiciaries.

That really was the shining day of LEAA.

Senator SPECTER. On the sting process, you did work well with the U.S. attorney on that one?

Mr. ARMSTRONG. Absolutely.

Senator SPECTER. Would you agree with Lowell Jensen's testimony that if S. 1688 were passed, and the coordinating counsels worked out a selected number of cases which might go to the Federal prosecutors with the concurrence of the local prosecutor, that that would be a deterrent effect on the career type criminals and the burglaries? For example, have some cases been tried in the Federal Courts?

Mr. ARMSTRONG. Absolutely. I can't say that our State judges are any more lenient than our Federal judges in our district. We think we have some judges that we hope to be able to keep forever because of the severity of sentencing of career criminals.

This gives prosecution another tool, another avenue in their arsenal to go after the career criminal by having the opportunity to go into Federal court, having the opportunity to have the assistance of Federal officers.

Senator SPECTER. So you think that it would be a worthwhile additional ribbon in our arsenal, even though you don't have the grave difficulties on sentencing by local judges as District Attorney Rendell described?

Mr. ARMSTRONG. The fact that I don't have it, I can speak for the fact that my brethren throughout this country have that problem, similar to Ed Rendell.

Senator SPECTER. The problem of leniency of judges toward sentencing?

Mr. ARMSTRONG. I can tell you from the smaller jurisdictions, from the prosecutor in Belton, Tex., who has 16,000 citizens, and he has one judge and that one judge, he may look at the career criminal a lot differently than the way his prosecutors do, and so if he has the opportunity to work there with the U.S. attorney and take that career criminal into the Federal system, that is going to create a greater deterrent in Belton, Tex., than if the fact because his local judge says, "Well, sure, Fred Smith is a car thief and this is his 14th time before me, and now he is graduating into armed robbery, we know all about it, and Fred's folks are good friends of mine, and they are the precinct captains in my district, and they help me everytime I run for election."

The district attorney in Belton, Tex., can go to the Eastern District of Texas and say, "We have a problem here. I have a career criminal. I need some help."

This bill, Senator, will give that prosecutor in the small town in Texas the same opportunity as Ed Rendell would have in Philadelphia.

So when you start to think of the impact of this legislation throughout the country, you can't ignore the fact that the small town district attorney who lives with his problems day in and day out at a greater extent than probably the most of us at a metropolitan level do, this would be a tool for his arsenal.

Senator SPECTER. I think S. 1688 would be good for both the small prosecutor and big city prosecutor.

Mr. ARMSTRONG. I do think so.

It gives the prosecutor the right to forum shop, to a large degree. We are talking about a district attorney trying to do his job with a solitary judge, with no other forum, and nowhere else to turn, this gives him a great advantage. If anything else, adds to the deterrent effect of career criminals.

Senator SPECTER. Mr. Armstrong, if you had to choose a figure, realizing that you don't have the whole panorama of Federal expenditures, what figure would you choose for H.R. 4481?

Do you think $170 million is realistic?

I know you would like to have more. Where would you come down, where do you think it is just too little to be realistic?

Mr. ARMSTRONG. I don't think it is realistic.

But I know the reason behind that figure. I think there is great fear in reestablishing the "bureaucracy of LEAA."

So with a small appropriation to that being guided and programs that are proven effective, such as career criminal promised programs, witness programs, sting operations, having that appropriation makes it more palatable to keep it going.

I would just analogize through my broken vocal cords this morning, you know there have been a lot of snafus. We have seen in the military industrial complex, there have been a lot of snafus in the LEAA. We heard one testify on the task force where they started to develop a gun that could be housed in a shoe.

That seemed to be the final straw for the Carter administration, and they said, that is enough. We don't need to be in this business.

Well, if you equate the snafus with what has taken place, you don't see America closing down the Pentagon today.

But on April 15, America is closing down the only institute, the only agency of the Federal Government designed to help State and local law enforcement.

The only agency designed to coordinate the criminal justice programs and the omnibus crime bill in America.

And I would make the argument, Mr. Chairman, that this country at this time doesn't need to be abdicating its national role by eliminating LEAA. If anything, it ought to begin strengthening it.

To answer your question more specifically, this amount proposed in the Hughes bill is only the beginning. It is not realistic, but it will give prosecutors and law enforcement authorities throughout the country to continue some proven and effective law enforcement programs.

I would encourage the level that is begun with to be reexamined subsequently by this body and by this committee to see that future appropriations be properly reflective of the needs that this country has.

Senator SPECTER. Mr. Armstrong, we certainly appreciate your coming today.

And for your bearing with us and notwithstanding your vocal problems, I think you did very well indeed and understood you very well, and we very much appreciate your being here.

Thank you.

We now turn to Mr. Hubert Williams, who is the Director of the Newark, N.J., Police Department, which is the largest police force in the State of New Jersey.

Mr. Williams, in addition to his responsibilities as director of the Newark Police Department, serves as adjunct professor at Rutgers Graduate School of Criminal Justice.

He attended the John Jay College of Criminal Justice and received his J. D. degree at Rutgers School of Law.

We welcome you here and look forward to hearing from you.

STATEMENT OF HUBERT WILLIAMS, DIRECTOR, NEWARK POLICE DEPARTMENT, AND POLICE EXECUTIVE RESEARCH FORUM, NEWARK, N.J.

Mr. WILLIAMS. Thank you very much, Senator Specter.

I am most pleased to have an opportunity to present testimony both on my own behalf and on behalf of the Police Executive Research Forum.

We think that the hearings are very important because they provide an opportunity for practitioners like myself to have some input into the process of developing legislation.

I think that there is a clear need for the Federal Government to provide support to State and local law enforcement because of the scope of the problem that we face today in crime in our society.

I don't need to illustrate for you that problem. Those people that appeared here prior to me have adequately described the scope and magnitude of the crime problem in this country.

I do want to address legislation H.R. 4481.

The Police Executive Research Forum which is an organization of police chiefs from the largest jurisdictions across the country, support the Hughes legislation.

However, we would add that the legislation as it currently stands, is in need of some modification.

Basically, under the Hughes bill, which allocates approximately $170 million for State and local law enforcement across the country, is primarily a support type of apparatus, 50 percent buy in, the legislation will allow municipalities to promote different programs, demonstration programs which will be supported.

The problem that we have with the legislation is that it does not go far enough in terms of allowing for experimentation and innovation within the system.

I recognize that the National Institute of Justice has a role here. But their role is primarily research and experimentation.

We are concerned about a national demonstration program that will allow for the development and marketing of demonstratively effective programs, techniques, in strategies and local law enforcement agencies across the country.

We think that rather than supporting programs for a period of a year or so after which the Federal moneys will run out, that what the Federal Government ought to be about is providing a leadership role in assuring that programs that have proven to be demonstrably effective are, in fact, piloted throughout the country, tested, and that the experiments, experience that we learn from these projects can be made available through a marketing strategy to everyone within the field of law enforcement.

We think that providing the opportunity for growth, development, and improvement of the criminal justice system will enhance our ability to deal with crime in our society. We believe this program has far greater efficacy than mere support systems similar to the old LEAA system which the Congress has deemed in its wisdom its demise as of April 15.

Senator SPECTER. Mr. Williams, what is your sense of the dollar figure that Congressman Hughes has put on his bill?

Mr. WILLIAMS. Well, as you know, as Prosecutor Rendell testified, about the amount of funds, that is extremely small.

I think it is $250,000 for each State. I would hesitate, Senator, to play the guessing game about the size of the budget. I think the scope of the crime problem in our society is so great, I think that the impact and effect of that crime problem on the American way of life is so dramatic, I leave that to the Senate and Congress to figure out how much money is available to deal with this enormous problem.

I don't believe a guessing game is going to do any good here. I don't know how much money we should put—really, what we are doing is a small amount, is totally inadequate. But I recognize the state of the economy.

I argue, like most before me, we ought to balance out our priorities and establish those priorities so the human needs of the citizens of this country are more adequately addressed.

I would hesitate to try to determine or project what the cost figures ought to be. I wouldn't want to do that.

Senator SPECTER. Mr. Williams, I appreciate your answer. I know it is a hard issue and anybody who chooses a figure can't really do very much more than choose a figure, it is so hard to do.

Would you amplify for me what your Institute does, the scope, composition, its activities, purpose?

Mr. WILLIAMS. The Police Executive Research Forum is a research organization, arm of local and county law enforcement agencies nationally. It is distinguished in that it represents large police agencies, from the big cities, from across the country, are represented.

Senator SPECTER. How many cities are represented in your institute?

Mr. WILLIAMS. I would say 50 cities, maybe more. I don't have the—it grows everyday.

Senator SPECTER. You are the executive director?

Mr. WILLIAMS. No; I am just a member.

I am the police director for the city of Newark, N.J. That is my responsibility.

Senator SPECTER. But, are you speaking for the institute?

Mr. WILLIAMS. Absolutely. I am speaking for the Police Executive Research Forum.

Senator SPECTER. They have considered this matter and have asked you to represent them?

Mr. WILLIAMS. That is right.

Senator SPECTER. Fine.

As your director—your title is director of the Newark Police Department, from that I conclude you are in charge of the Newark Police Department?

Mr. WILLIAMS. That is accurate, sir.

Senator SPECTER. Called commissioner in other places, chief of police, you are the director.

How many police do you have in your department?

Mr. WILLIAMS. We have about 864 police patrol officers, approximately 250 superior officers, and then we have a civilian group there of close to 300.

Senator SPECTER. What is the population of Newark now?

Mr. WILLIAMS. Newark's population has decreased. It is now approximately 349,000.

Senator SPECTER. And how does Newark rank nationally on the crime problem?

Mr. WILLIAMS. High. Newark has a high crime rate. I think the 1981 figures will be much lower. But in 1980, it was something like seventh of the largest American cities, nationally.

Senator SPECTER. What is your view of the adequacy of sentencing by the judges in New Jersey?

Mr. WILLIAMS. I have heard the question raised earlier.

If I were a judge, I would respond this way, Senator.

In the last 5 years, we have increased the prison population in America by 100,000. Today, we have approximately 350,000 Americans incarcerated in prisons, and in jails across the country. That means that we are increasing the growth rate in the population of by approximately 4 percent. So, I would question whether or not judges are not, in fact, adequately sentencing people, given the size of the prison population that we currently have, and the rate of growth of that population.

Senator SPECTER. On individual cases which come to your attention, have you been dissatisfied with any significant number in terms of sentencing?

Mr. WILLIAMS. As police director, I am concerned that people are able to get out so quickly, out of the system. But I view a large part of the problem as not being the propensity of the judge, but based on what the judge views the situation as.

In New Jersey, for example, at one point a couple of years ago, everyone was instructed not to sentence because of the overcrowding situation that we had.

Now, if the sentencing decisions are being made in the backdrop of the overcrowded penal population, then it is very, very difficult to make a judgment that the judges aren't sentencing because of their inclination.

Senator SPECTER. Well, that is a factor, that would be an unusual situation if that directive comes down from on high, say, a State supreme court justice, you have a unified State judicial system in New Jersey, and an exemplary one.

There are, from time to time, frustrations experienced by prosecutors and police chiefs about sentencing in a good case, a good case of police work and district attorney prosecution effort. Maybe a recidivist and the defendant may receive probation, frequently does, a police chief will speak out from time to time on the inadequacy of the sentencing.

I take it that has not been your experience?

Mr. WILLIAMS. No, sir.

Clearly, I view the sentencing as inadequate precisely for the same reasons as everyone else has testified here.

But I think that if we concluded sentencing is inadequate, the judges have a predisposition to leniency, that we have made a rather myopic assessment of the problem in view of the overwhelming volume that the system currently faces and the regulatory actions being taken by prosecutors across this country to alleviate the pressure on the court calendar and the penal end of the system, that was my point.

It wasn't a question——

Senator SPECTER. Talking about regulator, you mean discretionary decisions not to prosecute?

Mr. WILLIAMS. There are a whole series of the devices that are utilized. One is, of course, did they downgrade the charges so they can be heard in municipal court which obviously affects the scope of the sentencing?

It is no longer a statutory problem, but one dealt with municipal ordinances no longer 3 to 5, 5 to 7, we are talking about a maximum of 6 months to 1 year.

That is obviously one method. And I have seen other policies that are in place, in most of these policies, the policies that the prosecutor emphasizes in his role as a regulator of the court calendar.

Can you imagine what would happen to our notions of justice in this country if the county and superior courts were faced with anywhere near the volume that confronts municipal court judge magistrates?

Senator SPECTER. So, the prosecutor makes certain—he limits the cases that come before the judge, the judge has a conviction, you say you are concerned about the inadequacy of sentencing.

Why do you think that judges sentence inadequately beyond the reason of lack of prison space?

Mr. WILLIAMS. I think the basic problem of sentencing currently, it cannot be overlooked, is that question of sentencing of prison space. I think if anybody were to take a look at the growth in the prison population, as a whole, without looking at narrow and specific instances and individuals, clearly there are examples of judges that are too lenient judges, as there are examples of judges that are too harsh, if you look at the thing as a whole.

You can't conclude given the growth in the prison population, judges as a rule, more as a whole, are unduly lenient. I cannot understand why we continue to experience the constant growing number of American citizens in jail if, in fact, the judges were as a rule, as a whole, overlenient.

I think people are focusing on our glaring examples within the system where everyone knows that someone should get a stringent sentence and they don't, and that is clearly the case.

Beyond that, Senator, let me make this point.

The judiciary operates largely invisibly in terms of a track record.

You know very much, or very well, that a police chief does, even though I think that some of our criteria and assumptions are inadequate and inaccurate.

What we do basically is say the police make a certain number of arrests. We can calculate that number of arrests that they make. We can also look at the number of cases that they clear. We can also look at the crime rate and many people argue that the police are directly responsible for the crime rate.

How many of us can show what the record of any judge is in the United States with respect to sentencing patterns and these things, they are largely invisible.

How many American citizens could look at the prosecutor's office and point out the number of cases that have been downgraded, discharged or dismissed, or in some other way not dealt with by the system.

There is an invisible area of discretion being executed within the judicial end of the system that we just simply do not have the statistics on.

I think that because of the visibility, some judges perhaps are much more lenient than they would normally be if they are subject to public scrutiny.

Senator SPECTER. My experience differs.

The prosecutor's office in Philadelphia is subject to statistical analysis or the number of arrests which are dismissed without prosecution or downgraded, and there are statistical computations on judges which are publicized from time to time on sentencing patterns, so it may be that there is a difference between various jurisdiction.

Mr. WILLIAMS. It may be.

I have never seen that, and I have never seen any kind of a register like the uniform crime reports or the Bureau of Justice statistics, doing any sort of record or log what the judges are doing, or the judiciary are doing, as a rule.

Senator SPECTER. They are closely guarded, but they are available in the city of Philadelphia.

Mr. WILLIAMS. That is my point.

I would assume that this information is available, but I can't get it. If I can't get it, I know the average citizen can't, so therefore the public cannot really scrutinize adequately what the judges are doing. The judges are operating anonymously; maybe they should be. I am not saying they should be subject to public scrutiny in the same way people in the other end of the system are.

But your question went to how come judges seem to be more lenient. I think that the anonymity inherent in the judicial system is one of the reasons.

Senator **SPECTER**. Your judges are appointed?

Mr. **WILLIAMS**. Yes.

Senator **SPECTER**. In many States they are elected. If you postulate an elective State, given an elective system, voters have a right to know what they are like when that question comes up, should they be elected to another term, should they be retained, those are relevant considerations if say a judicial candidate ought to be subjected to an election, to a vote.

Well, that is a great part of the hearing to give us some experience that we don't have and I am interested to know your views.

Let me ask you in sum, if you think that it would be useful, as Mr. Armstrong testified, to have an extra weapon available for the prosecutorial system to have some matters triable in the Federal court for career criminals?

Mr. **WILLIAMS**. Well, let me say this, and I want to be candid as well as respectful.

I think that the Federal thrust is an absolute hypocrisy with respect to dealing with crime problems in America.

S. 1688 is a clear dramatic example of that hypocrisy.

That is my opinion.

Senator **SPECTER**. Why do you say that?

Mr. **WILLIAMS**. OK. Well, first, couple of reasons.

One is that the option, first of all, is the Federal Government has limited resources in the area of crime control and fighting crime, logic would dictate that those resources be used in the best manner possible.

Now, I have seen DEA's autonomy eliminated, and its budget reduced. If the Federal Government is going to do anything about crime in America, clearly its role is with narcotics, because narcotics is at the root of most of the crime problems that S. 1688 pretends to deal with, the break-ins, robberies, if anybody ever does any studies on them, really you will find out most of the people committing these crimes are junkies and they are trying to get the money to support their habit.

So you don't eliminate your efforts or reduce your efforts in the major area that you should be functioning in, and then move to deal in an area that has historically been the responsibility of the States and how they deal with that.

The Attorney General will under this condition where it is necessary to vindicate a significate Federal interest, you know, now my studies in law school, that was basically a constitutional issue. They would take them if, in fact, it was a major constitutional issue, that is the language that was used.

Now, let's assume that you are serious about this thing and they are not going to take those cases on a rare and highly publicized instance. But they are serious about trying to deal with the volumes that has inflicted the State and local governments and overwhelmed the prison systems there.

Let's take a look at that. If we convicted 1,000 people per year, given the costs to build prison space, it would be $80,000 per cell to construct a maximum security system in the United States predicated on the market of New York State and California. It will cost $15 million to maintain.

So that would be about $95 million a year, and one of the things I notice that Mr. Jensen didn't respond to, he only alluded to, was the cost factors.

Now, what I am projecting is that, and this is very rough, that it is going to cost, if they just do 1,000 a year, $95 million a year for this, if we are going to spend Federal money to deal with crime. Then I am saying, let's deal with crime in an area that the Federal Government can be most supportive, and that would most directly strike at the crime problem, that is, clearly in the area of narcotics.

Senator SPECTER. The plan is not to spend additional money on S. 1688, the plan is to give 30,000 Federal prison spaces to utilize this bill on a selective basis.

The bill has as a cutoff, three robberies or burglaries, but there are many career criminals that have been convicted 12 times, and are not being tried properly in the State system, or being sentenced.

So it isn't a matter of extra facilities.

The administration has not shown an instinct to add extra money. This is a matter of prosecutorial discretion, take a limited number of career criminals and elevate them.

Mr. WILLIAMS. That is precisely where the hypocrisy comes in. They are going to take on additional work without additional resources and Prosecutor Rendell testified here he is carrying 40 percent of the fraud now because they have simply stopped doing it.

He is doing the bank robberies because they will not take it. They are not going to be able to take on additional responsibilities with existing—on the existing resources being increased.

Senator SPECTER. What did you think of his testimony about the arrangement he has with the Federal prosecutor at the present time even without S. 1688 on the gun cases where he can't get sentences, but the Federal prosecutor can?

Mr. WILLIAMS. Well——

Senator SPECTER. Prosecutor Rendell may have to go try some of the bank robbers, the U.S. attorney will try the gun cases. Rendell would be prepared to take his chances on a sentence trial of the bank robbers in the State courts and try the gun cases in the Federal courts where he can get sentences.

Mr. WILLIAMS. I think the prosecutors are really grabbing for any straw that is available, and that is precisely what they have got in this instance, and I really believe that they know it.

I am not saying that the bill will not have some defect if you want to argue that S. 1688 will have some effect, I think you would be arguing accurately.

My point is, the effect will be so insignificant, the costs so great, that it is ludicrous to argue this bill as a method of dealing with the crime problems that we are faced with in this country.

And it is purely logical. The points I am making are very cogent points, how many people will be incarcerated under this bill, what will be additional cost factors, and is it wise for the Federal Government to spend its money dealing with burglaries and robberies when there are crimes that local and State governments find it impossible to deal with because of interstate problems, and they do not have the capabilities and the Federal Government could and should deal with.

My question, my problems with it go both to its overall efficacy as well as the fact I don't consider it to be a good use, or expenditure of public moneys, given the types of problems we are faced with.

I think we could use the moneys much more wisely. The Hughes bill at least attempts to address the problems irrespective of whether or not there is enough money there. It at least makes the attempt.

This bill here, in my view is really a facade. It has a lot of surface glitter and that's all. It is not going to have any impact whatsoever, not that is measurable to people like me that see that crime problem out there in the streets of Newark and see what is happening to an American way of life where people are giving up fundamental rights under the Constitution because they are afraid to execute them out of the fear of crime and the problems in the cities.

No, when we see something like this coming down the track, I think it is appropriate and proper that somebody like me come before you and be completely honest and candid and say this is a natural facade.

Senator SPECTER. We are very interested in your views based on your experience.

If you are postulating that if $170 million were available you have three alternatives. One would be on DEA, we are going to put more money into the investigation of narcotics cases, more money into treatment centers for drug addicts, and try to take them out of the drug cycle, try to take them away from burglaries, and that would be item one, or you are going to put $170 million into the Hughes bill as alternative two, or alternative of $170 million into S. 1688, I can see you are saying I would prefer alternative one or two to alternative three. S. 1688 is not designed as an extra expense item. S. 1688 is designed in the context where, given numbers of Federal prosecutions, there are 30,000 spaces in prison, there will be many, many crimes in the robbery or burglary category which will be better to focus Federal attention on than some other activities such as antitrust cases, income tax prosecution or bank robbery cases. Maybe District Attorney Rendell will swap the U. S. attorney a career criminal for a bank robbery case because he wants this career criminal to go to the Federal court where he doesn't have the sentencing problem.

That is the context where it works. It is not represented to be the end all as a Federal answer to street crime.

Mr. WILLIAMS. Is there any budget attached to the bill?

Senator SPECTER. No, absolutely not. Not at all.

That has been the hang up in getting approval from the administration, anything you want to get done today, Mr. Williams, in Washington, can't have a cost factor attached to it. That is one of the brutal facts of congressional life.

Now, I am not saying that is a somewhat overstatement. Last year, we had $100 million on the juvenile justice system under the Carter administration. The Reagan administration said zero. That is a function of this subcommittee. We fought for $70 million and finally persuaded the Judiciary Committee in an on-the-floor fight got the Senate to authorize and keep the Office of Juvenile Justice and Delinquency Prevention.

After we got it authorized, David Stockman in OMB cut it out. He had a deferral. We had to go through an elaborate process to rescind his deferral. He kept his deferral secret from us 28 days. On October 1, the new budget came into effect, the money being authorized by Congress in the continuing regulation. Suddenly, we started having reports around the country, the money wasn't coming in. And staffs were being laid off in juvenile justice programs around the country.

Finally on October 29, we got a notice of rescission from Mr. Stockman at OMB and then we had to go through an elaborate process to get the Budget Committee, the Appropriations Committee, and the Judiciary Committee to approve, a rescission and we had to overrule David Stockman on $70 million which we finally got done on December 15.

So you will know, that is what is involved in getting something with funding.

S. 1688 has a price tag of zero. It is a shift of existing allocations. It is as Lowell Jensen stated, he likes it, and he is going to find room for it. It is going to be a prosecutorial discretion of selection of the most important cases.

Mr. WILLIAMS. That end of it is, I think, good.

My only concern is that we shouldn't believe that the bill is going to have a wheel—have an impact. You know, that it may be a good way to provide the extra tool that the prosecutors have asked for.

Senator SPECTER. You may be right, or you may be wrong.

My own judgment is from my experience in the field, it will have an impact. I am not magnifying it or making any grandiose predictions. I think we may see a day down the road where we are going to have more resources. There are a lot of us who don't like what is going on in the law enforcement. Last year on the continuing resolution, Senator Chiles at 4 a.m., on the continuing resolution, exempted law enforcement from a 4-percent across-the-board cut.

I won't tell you the whole story now. He was able to do that on a continuing resolution when people were so weary that it was accomplished. And I think the Hughes bill has a chance of success; I shouldn't say a good chance, I stopped myself.

When you talk about $170 million, I think we may be able to do something—like we got $70 million for juvenile justice there and these sessions are important. They set the scene for the future.

Mr. WILLIAMS. We are arguing, Senator, in the Hughes bill that they set aside 10 percent of the moneys to be used for experimentation. We feel that percentage ought to be significantly larger, or the Hughes bill doesn't basically—it takes programs that have been demonstrably effective, and it provides some support for those programs, so that States and municipalities can buy into them.

You see, that locks us into where we stand right now, with respect to the growth and improving the existing criminal justice system, and its ability to deal with the problems.

What we are arguing for is to enhance the experimentation side of it so that we can constantly look at the methods of improvement. We don't think that the 10 percent is enough. We are arguing that area be significantly increased as opposed to just locking us into the status quo.

Senator SPECTER. I think that is a very important aspect.

We have been here slightly more than 3 hours from starting time.

I want to thank you very much for coming to Washington today from Newark, and for your testimony and for your candor.

It is from exchange of views with different people from different backgrounds that we learn. Each of us has had some experience. The hearing process is a great part of the congressional process, to hear people shed light from their own experiences, and I want to thank you again for coming.

Mr. WILLIAMS. I would like to, Senator, express my deep appreciation for having the opportunity to come here to this Senate to the subcommittee to express my views.

I realize that some of the points that I have made were rather poignant. I think it is clearly important to understand that a person in my position sees the problem very close and the great fear I have is that unless we begin to deal with America's crime problem in a rational, constructive manner, that the rush is going to be for emotional knee-jerk reactions, which will endanger our system.

Thank you.

Senator SPECTER. The subcommittee is adjourned.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]

APPENDIX

Additional Statements and Letters

TESTIMONY OF
HON. HAROLD S. SAWYER
BEFORE THE
SUBCOMMITTEE ON JUVENILE JUSTICE
OF THE SENATE COMMITTEE ON THE JUDICIARY
MARCH 18, 1982

Mr. Chairman and Members of the Subcommittee:

In view of the rising crime rate and increasing public concern, it is my pleasure to appear before this Subcommittee to discuss the need for federal efforts. In my view, H.R. 4481, combined with the activities of our federal law enforcement agencies, such as the FBI and DEA, constitutes an appropriate federal response. I want to commend you, Mr. Chairman, for your concern over the termination of federal criminal justice assistance and for beginning in the Senate the process of restructuring it in a manner that will encourage continued funding.

Mr. Chairman, I am a vigorous supporter of the notion that the federal government ought to do only what the people and their duly elected state and local governments cannot do for themselves. Obviously, the people are unable to defend themselves against not only foreign attacks, but threats to domestic peace as well. The only real question is which level of government ought to respond. Under our constitutional system of federalism, ninety percent of criminal activity falls within the purview of the states and localities. As former urban prosecutors, I am certain we all agree that the states and local governments are ready, willing and able to

FULFILL THEIR DUTIES. HOWEVER, SOME ASPECTS OF THE CRIME PROBLEM ARE BEYOND THEIR ABILITY TO RESPOND EFFECTIVELY. AMONG THESE ARE EXPERIMENTATION AND INNOVATION IN CRIME-FIGHTING PROGRAMS. FEDERAL FUNDING IN THIS AREA IS AS ESSENTIAL, IN MY ESTIMATION, AS SPENDING FOR NATIONAL DEFENSE.

WHILE MY COLLEAGUE, THE CHAIRMAN OF THE SUBCOMMITTEE, HAS DESCRIBED WHAT H.R. 4481 INCLUDES, LET ME EMPHASIZE WHAT IT DOES NOT INCLUDE. FIRST, H.R. 4481 DOES NOT INVOLVE LARGE EXPENDITURES. $170 MILLION IS A USEFUL SUM, BUT NOT A PRINCELY AMOUNT WHEN WE LOOK AT FEDERAL SPENDING IN OTHER AREAS. CERTAINLY, IT IS A SUBSTANTIAL DECREASE FROM LEVELS IN PREVIOUS FISCAL YEARS, BUT WITH THE MATCHING FUNDS REQUIRED IN THE BILL, I BELIEVE WE HAVE A WORKABLE PROGRAM. SIMPLY THROWING HUGE QUANTITIES OF MONEY AT THE CRIME PROBLEM IS NO SOLUTION. THE REAL ISSUE IS HOW CAN WE EFFECTIVELY SPEND THE MONEY.

MR. CHAIRMAN, ANOTHER THING H.R. 4481 DOES NOT DO IS TO GIVE "FREE MONEY" TO THE STATES. THIS, IN MY JUDGMENT, WAS ONE OF THE GREAT PITFALLS OF LEAA. AS I HAVE MENTIONED, THE STATES ARE REQUIRED TO PROVIDE 50% MATCHING FUNDS. WITH THAT KIND OF INVESTMENT INVOLVED, IT IS UNLIKELY THAT FEDERAL FUNDS WOULD BE SPENT ON UNPRODUCTIVE PROGRAMS.

FINALLY, H.R. 4481 DOES NOT CREATE ANY NEW BUREAUCRATIC MONSTERS. ON THE STATE LEVEL, IT ABOLISHES MANDATORY PLANNING AGENCIES. ON THE FEDERAL LEVEL, IT COMBINES TWO EXISTING AGENCIES INTO ONE. FURTHERMORE, THE BILL RESTRICTS THE USE OF GRANT FUNDS FOR STATE

ADMINISTRATIVE EXPENSES TO 5%. THUS, THE TAXPAYERS WILL ENJOY UNPRECEDENTED VALUE FOR THEIR DOLLARS SPENT ON CRIME PROGRAMS.

MR. CHAIRMAN, WITH THE SUPPORT OF THE CHAIRMAN OF THE SUBCOMMITTEE, THE FULL COMMITTEE AND THE HOUSE INCLUDED IN H.R. 4481 SEVERAL AMENDMENTS WHICH I OFFERED. FIRST, FUNDING FOR INDIVIDUAL FORMULA GRANT PROGRAMS UNDER TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT IS LIMITED TO FOUR YEARS. THIS WAS A RECOMMENDATION OF THE ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME AND I BELIEVE IT HAS MERIT. AT THE END OF FOUR YEARS, THE RECIPIENT MUST PICK UP THE CHECK. THUS, THE FEDERAL GOVERNMENT'S ROLE UNDER H.R. 4481 TRULY WILL BE TO PROVIDE "SEED MONEY," NOT PERMANENT FUNDING.

ONE OF THE NOVEL FEATURES WHICH CHAIRMAN HUGHES INCLUDED IN H.R. 4481 IS THE AUTHORIZATION OF EMERGENCY, OR "DISASTER," ASSISTANCE. OUR TRIPS TO MIAMI AND ATLANTA LAST YEAR IMPRESSED UPON US THE COMPELLING NEED FOR SUCH ASSISTANCE. BASED ON SOME SUGGESTIONS BY THE ADMINISTRATION, I OFFERED AN AMENDMENT ON THE FLOOR OF THE HOUSE, WHICH WAS SUPPORTED BY CHAIRMAN HUGHES, TO STREAMLINE AND CONSOLIDATE THAT ASSISTANCE. AS H.R. 4481 WAS PASSED BY THE HOUSE, ALL FORMS OF EMERGENCY AID, INCLUDING THE SHARING OF INTELLIGENCE, EQUIPMENT AND PERSONNEL, AND THE PROVISION OF FUNDS, WOULD BE ADMINISTERED BY THE ATTORNEY GENERAL. THIS, IN MY VIEW, IS THE MOST EFFICIENT WAY TO RESPOND TO AN EMERGENCY SITUATION.

MR. CHAIRMAN, WE ARE PLEASED TO HAVE YOU AS AN ALLY IN THE EFFORT TO RESTORE FEDERAL CRIMINAL JUSTICE ASSISTANCE TO THE STATES AND LOCALITIES. AS YOU KNOW, OUR BILL WAS PASSED BY AN OVERWHELMING MAJORITY IN THE HOUSE. I HOPE THAT YOU WILL ENJOY THE SAME SUCCESS OVER HERE.

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE STATE OFFICE BUILDING CAMPUS
ALBANY, N.Y. 12226

THOMAS A. COUGHLIN III
COMMISSIONER

Statement by Commissioner Thomas A. Coughlin III on HR 4481 (The 1981 Justice Assistance Act) for Senate Subcommittee on Juvenile Justice

The Department of Correctional Services of the State of New York wishes to express its endorsement of the Justice Assistance Act, HR 4481, currently under consideration by the Juvenile Justice Subcommittee, under the leadership of Senator Arlen Specter.

My Department is the third largest correctional agency among the 50 state systems. Earlier this week, on March 16, our population was 26,592 inmates, with a system of facilities running at 112.7 percent of capacity. As such, the provision in HR 4481 for a formula grant category to "provide programs which alleviate prison and jail overcrowding" is strongly supported by the State of New York.

I am also pleased to note that HR 4481 has received the strong support of the professional organization in the field of corrections, the American Correctional Association.

As individual state rates of crime continue to increase, and greater prosecutorial and judicial efficiencies are realized it is most important for the Federal Government to be in a position to lend support to the development of programs of proven effectiveness. HR 4481 recognizes this need to support programs with track records of success. It also recognizes the obligation of the states to underwrite part of the costs through its provision for a 50 percent State cash match.

In conclusion, the major correctional systems of this nation are facing unprecedented escalations in the growth of prison populations. Individual state budgets are strained currently in funding the various components of the criminal justice system necessary for the apprehension, prosecution and confinement of those felons responsible for the ever increasing rate of violent criminal victimization. Therefore, it is essential that HR 4481 be enacted so as to provide some assistance to the states. As the State of New York continues to legislate against such crime and provide for the secure confinement of those felons sentenced to my Department, I wish to assure members of this Subcommittee panel that any funded programs which would be developed by HR 4481 would most certainly be of major impact to the various elements of my State's system of criminal justice including the overcrowded state correctional facilities.

TESTIMONY FOR SENATE SUBCOMMITTEE ON JUVENILE JUSTICE

Submitted by

Jack Schaller
President
American Institute of Criminal Justice

For the past fifteen years, the federal government has been a partner to states and localities in the operation of this country's criminal justice system. Many lessons that have been learned from this involvement, but perhaps the most basic one is that which is most difficult to accept at this time. The lesson is this: Once begun, it is all but impossible to reverse an effort of the magnitude initiated by the Omnibus Crime Control and Safe Streets Act of 1968 and expect anything but regression in criminal justice practices.

Historians will, no doubt, debate far into the future the virtues and flaws of this seminal legislation. Created at a chaotic point in this country's history, and admittedly burdened with inflated expectations, it is not difficult to point to the many expensive and irrelevant excesses which this Act spawned, particularly in the law enforcement field.

I believe that much of the criticism leveled at the Law Enforcement Assistance Administration, the agency created by the Omnibus Safe Streets Act, is appropriate only to the first few years of this agency's existence. With the passage of time, the government began to get a grip on a proper mission for this agency. As a result of progressively better people, better research, and a better sense of "the possible", LEAA, and related federal criminal justice agencies, have developed programs that have made substantial contributions to the criminal justice field, few of which would exist today without federal leadership. Equally important, most of these programs have become a regular part of state and local criminal justice practices, paid for by local dollars as a clearly recognized operating responsibility of those jurisdictions.

There should be no disputing the contention that operating responsibility for criminal justice programs clearly rests with local jurisdictions. Responsibility for developing, testing, and demonstrating new concepts is not so clearly delineated, however. One could argue that the federal government is the logical base for this kind of broad based activity. There is ample reason to believe that state and local governments cannot perform these latter functions as effectively as the federal government can. This is partially because state and local revenues are sorely needed to meet specific operating responsibilities. Equally important, these jurisdictions often lack the larger view which is necessary to develop and demonstrate a new concept which has utility for the entire criminal justice community. I believe this role of developer and demonstrator of ideas is a classic one for the federal government in regard to criminal justice. Any number of programs can be cited to illustrate this role: the Integrated Criminal Apprehension Program, the Prosecutor's Management Information System Program, Project STING, Victim Witness Assistance Programs, Treatment Alternatives to Street Crime, and the Free Venture Prison Industry Program are among the more well known examples. These represent but a few of the many programs which have been launched at the federal level and transferred to states and localities for full scale implementation.

The federal government should be seen as the sponsor of innovation in criminal justice, looking for answers to problems which localities lack the capacity to discover on their own. Once proven successful, these innovations should be transferred to the locality for implementation.

It is important to recognize that sponsoring innovation need not entail endlessly supplying funds to a given program. My work in criminal justice convinces me that program support, in terms of management and technical assistance to state and local jurisdictions, is as important as any amount of funding the federal government may provide. Perhaps the most successful example of this type of relationship is the Federal Bureau of Investigation, which has long provided support in terms of training and technical assistance to police agencies across the country.

The Free Venture Prison Industry Program is a noteworthy example of the knowledge transfer process coupled with a decreased need for dollar transfer to states.

The Free Venture program began as a seven state research project. The LEAA initially awarded a contract to a private sector research firm to develop a model prison industry program that would prove economically feasible at the same time that it provided employment training opportunities to prisoners. At the conclusion of the research phase, a demonstration program was initiated, which included substantial grant awards to three demonstration sites. This was followed by an expansion of the demonstration coupled with a more modest level of grant award to four additional sites. Finally, by virtue of legislation introduced by Senator Percy and embodied in the Justice Systems Improvement Act of 1979, a more advanced pilot program was initiated, which involves no grant funds to states whatsoever. Through all these various phases, including the present pilot effort, technical assistance has been made available to participant states. Having participated in the early Free Venture efforts, that involved half million dollar grants to participant states, and in this latest effort which involves no money at all to the implementing entities, I can conclude that the absence of grant funds to states has not at all detracted from the quality of the overall effort. In some instances states have benefited more from, and been more interested in receiving, technical expertise than they have been in obtaining government grants.

I would argue, therefore, that the federal government can continue to be an innovator in the criminal justice field for a relatively modest amount of money. Federal assistance can be limited to underwriting the cost of technical expertise to the jurisdiction requesting assistance, and to modest start-up funds in instances where significant initial expenditures are inevitable, and a definite long term payoff is assured (e.g., Project STING). By so doing, the federal government can continue to assist local jurisdictions in their efforts to operate a fair, just, and effective criminal justice system. At the same time the federal government can define its criminal justice mission in a way that is both appropriate and achievable at the federal level.

PRETRIAL SERVICES RESOURCE CENTER
918 F Street, N.W. Suite 500 Washington, D.C. 20004 (202) 638-3080

PRETRIAL JUSTICE AND VIOLENT CRIME: ISSUES FACING THE EIGHTIES THE RESPONSIBILITY OF THE FEDERAL GOVERNMENT

SYNOPSIS

Crime control and the administration of criminal justice remain primarily state and local responsibilities. The federal government can and should, however, play a role which combines: leadership that does not infringe on state rights; discreet assistance which builds upon local initiatives and priorities; and capacity for transfer of credible information which jurisdictions, on their own, are unable to obtain.

These principles are consistent with a desirable and harmonious partnership between federal and state/local governments, particularly at a time when rising crime is of predominant concern to each citizen. Such an approach is crucial if a successful war on crime is to be waged.

A serious re-ordering of pretrial decision-making should be included as one of the principle strategies. As indicated by Senator Kassebaum, from Kansas, when she introduced an amendment to the Federal Bail Reform Act (97th Congress, First Session):

> "When an offender first comes in contact with our criminal justice system, it should impress him with its commitment to the preservation of law and order. It is at this point that deterrence from future crime can best be accomplished. It is also at this point that those individuals evidencing a proclivity for further mischief can be identified and detained. While frequently, however, it is at this point of first contact that the opportunity for crime prevention is missed and the offender's impression of official weakness is reinforced."

The urgent need for attention to pretrial justice becomes evident when one considers that:

- The management of those decisions (whether to arrest, prosecute, detain) bears consequences on all subsequent aspects of the criminal case; squanders, if poorly handled, the already meager resources of law enforcement, corrections and courts; and affects not only all components of the criminal justice system but also a larger number of persons (victims and defendants alike) than any other stage of criminal justice.

- Local and state budgets will not be able to support construction and renovation of institutions to meet current needs and future population projections. Nor will any such program, even if funded, be timely enough to resolve the already existing crisis. Since, necessarily, a number of defendants and offenders will be released, and priorities must be established for the prosecution of cases, the decisions of who will be released and who will be prosecuted must guarantee that public safety is being addressed and must account for the most efficient use of the taxpayers' dollars.

- A key component in a successful response to these issues is the transfer of information and experiences as they develop around the country. This entails: the ability to provide individual jurisdictions with access to the most recent and tested solutions; and the commitment to allow each jurisdictions to choose — among those options presented — those which are consistent with local resources and priorities.

In short, crucial decisions and choices are facing most jurisdictions. If implementation of sound approaches remains sporadic, and the management of systems/programs is inefficient, the country suffers as a whole. Nowhere is the need more manifest or the consequences more far-ranging than at the pretrial stage of criminal justice.

The Pretrial Services Resource Center was created in 1976 by the U. S. Department of Justice through Law Enforcement Assistance Administration funds to address those questions and play such a role on behalf of the federal government and in the manner described above. Response from around the country (from state legislators, county officials, sheriffs, judges, prosecutors, criminal justice planners and program administrators) has been unanimous: the service is needed. It is sought. It is effective. The credibility which the Center has acquired can be principally attributed to: its neutral posture as it utilizes a fact-finding approach and presents alternatives rather than advocate a drastic "here are the answers" method; the timely responsiveness of its services to local priorities; and the fiscal austerity of the agency itself (where staff and budget have been held constant throughout its duration at a cost of approximately $550,000/year).

It is significant that the Center is being viewed as one of the best federally funded agencies in the criminal justice system even though (or perhaps because) it provides no monies nor grants to local jurisdictions. Instead, it does offer them a chance to solve their problems in a rational and informed fashion, one of the key components to rational policy decisions and implementation.

As has been suggested by many "consumers" of the Center services, the Resource Center would have to be re-invented were it to disappear.

The attached information spells out in more detail some of the points made above.

I. THE CRISIS FACED BY STATE AND LOCAL GOVERNMENTS

A. Pretrial Detention

A.1. Monies which are currently in the pipeline to build/renovate prisons and jails will fall short by 87,000 beds of the needs raised by current overcrowding problems. The standard formula 1/ computation suggests that to meet the existing overcrowding situation, an additional 40 billion dollars will need to be raised for construction and maintenance. Further, it is already estimated that -- should the one man per cell standard be upheld -- ten billion dollars would be necessary to meet that standard for the 1978 population. That figure does not take into account population increase since 1978 nor costs associated with other standards.

A.2. It is projected that overall levels of incarceration will continue to increase through 1990 in federal and state institutions. Incarceration per capita grew by almost 30% between 1972 and 1978. The number of filings in federal courts is rising at a time when federal institutions already are at near capacity. All state corrections plans where such analyses were made confirm that the rate of incarceration will continue to augment (through a combination of increasing number of arrests, mandatory sentencing laws, and tougher law enforcement policies). These projections will further compound the financial straits discussed above.

A.3. One of the traditional "solutions" to problems faced by federal and state institutions, e.g. transferring population to local facilities,

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1/ As used by the National Institute of Corrections is no longer available. Most of the 3,500 jails in this country are themselves either overcrowded and/or obsolete. Many are faced with court orders or imminent and costly litigation. Local governments will not be able to provide (either in time or money) the relief sought.

A.4. A COMBINATION OF THE FACTORS LISTED ABOVE INDICATES THAT LOCAL JURISDICTIONS WILL BE FORCED TO LOOSE AN INCREASING NUMBER OF INDIVIDUALS, IN ORDER TO MAKE ROOM FOR NEW ARRIVALS IN JAILS AND PRISONS. THE INEVITABILITY OF THIS SITUATION MUST BE FACED WHILE BEARING IN MIND THE PUBLIC'S CONCERN OVER VIOLENT CRIME AND CRIME WHILE ON BAIL. APPROPRIATE STRATEGIES MUST BE DEVELOPED TO HELP DECIDE HOW AND WHOM TO RELEASE AND RECONCILE THOSE DECISIONS WITH SCARCE RESOURCES.

B. Pretrial Disposition of Cases

B.1. The largest number of criminal cases (upward of 90%) are disposed of before and/or without trial. Mechanisms for such dispositions (such as plea bargaining, diversion, mediation, restitution, summary probation, etc.) are for the most part discretionary and invisible to public scrutiny.

B.2. The public is seldom, if ever, involved in the criminal justice process 2/ and feels disenfranchised from the ways in which the courts address its concerns for justice. There is currently little or no accountability as to the efficiency with which the taxpayers' dollars are used for pretrial dispositional alternatives; nor is there much debate whether public interest and safety are served through those various forms of pretrial dispositions. As a result, communities and individual citizens remain uninformed as to what is being done, how much can be done, and what should be legitimately questioned.

B.3. A COMBINATION OF THE ABOVE FACTORS ACCENTUATES THE GAP BETWEEN PUBLIC EXPECTATIONS AND HOW IN FACT THE CRIMINAL JUSTICE SYSTEM CAN OR SHOULD OPERATE. IT LESSENS OPPORTUNITIES FOR COMMUNITIES TO VERIFY THAT ITS SAFETY IS PROTECTED AND ITS TAXES USED AS EFFECTIVELY AS POSSIBLE.

II. THE NEED FOR SOLUTIONS AND QUESTIONS

A. Pretrial Release Should Not Endanger the Communities

A.1. Effective mechanisms for pretrial release that ensure community safety and appearance in court exist in many jurisdictions. 3/ Where such mechanisms are in place, they can document that the majority of defendants who are released (upward of 35% in some jurisdictions), return to court (upward of 95%) and are not re-arrested while on release (upward of 90%). Further, they provide a capacity for tracking information and re-assessing techniques that will reduce those risks to the barest minimum.

A.2. In contrast to those successful approaches, many jurisdictions are faced with the need to release defendants and do not have the know-how of approaches tried elsewhere to protect the community. The ability to have access to documented and effective strategies is key to helping relieve the crisis faced by many jails, avoid costly litigation, and do so in a way which is sensitive to community concerns about violent crime.

2/ Traditional education of citizens about the criminal justice system has been through participation as jurors.

3/ Screening systems have been developed which provide information to the judge, objectively assess potential risks according to point systems, and monitor and supervise those defendants who are released.

B. Pretrial Dispostions Should be Visible and Accountable

B.1. Pretrial dispositional alternatives have met with varying degrees of success. In several instances, their effectiveness has been questioned when results are contrasted with purported objectives (e.g. cost-effectiveness, reduction of recidivism, etc.). Neither the social work approach nor that of punishment without trial have demonstrated conclusive gains in the management of criminal dispositions.

B.2. On the other hand, it is doubtful that our courts can seriously deal with violent crimes, and concentrate on the most severe cases without resorting to various degrees of discretion as to the handling of the majority of offenses which are minor in nature. 4/ This pragmatic need, however, urgently requires an ongoing scrutiny: in a time of diminishing resources, effectiveness, as opposed to expediency, should guide those pretrial dispositions. Individual jurisdictions need information on what options are available, and what questions should be raised, as they determine their priorities for prosecution and allocation of their resources.

C. CONSIDERING THAT THE PRETRIAL STAGE OF JUSTICE (WHETHER TO ARREST, DETAIN, PROSECUTE)

1. AFFECTS A LARGER NUMBER OF PERSONS (VICTIMS AND DEFENDANTS ALIKE) THAN ANY OTHER STAGE IN THE PROCESS
2. HAS AN IMPACT ON ALL FUTURE ASPECTS OF THE CASE
3. BEARS CONSEQUENCES FOR ALL COMPONENTS OF CRIMINAL JUSTICE (LAW ENFORCEMENT, PROSECUTION, COURTS, CORRECTIONS, DEFENSE)

THE SIGNIFICANCE OF ACTIONS AND POLICIES DEVELOPED IN THIS AREA CANNOT BE OVER-EMPHASIZED. THEY MUST SUCCESSFULLY RECONCILE THE HARSH REALITIES OF DIMINISHING RESOURCES AND THE LEGITIMATE CONCERNS OF COMMUNITIES OVER VIOLENT CRIME. THEY MUST BE OBJECTIVE, EFFICIENT AND ACCOUNTABLE. THEY WILL BEAR HEAVY CONSEQUENCE ON HOW THE ENTIRE SYSTEM OF CRIMINAL JUSTICE WILL DEVELOP OVER THE NEXT DECADE.

III. THE ROLE OF THE FEDERAL GOVERNMENT

The current national preoccupation with crime, highlighted in Chief Justice Burger's remarks before the American Bar Association in Houston calls for support and leadership from the federal government. The experience of federal intervention over the last fifteen years in this area also requires that some reflection on its limitations and success be incorporated in future federal action. As they relate to the pretrial area, among several strategies available, some principles and responses to demonstrated needs are suggested here.

A. Principles

A.1. The Federal government should refrain from interfering with the manner in which state and local governments handle their criminal justice system, as long as basic constitutional principles which govern our country are upheld.

4/ Current techniques include: requirements from and/or supervision of a defendant for a period of time in exchange for possible dismissal of the case; negotiations between defendant and victim toward resolution of the case and, in some instances, restitution or reparation; and identification and referral of certain types of defendants (for instance, with substance abuse problems) to various modalities of treatment, etc.

A.2. Where federal assistance is provided, it should be limited to those areas where local jurisdictions and states, on their own, cannot meet significant problems that affect its citizens.

A.3. Whatever federal strategy is selected, it should be provided on an equal opportunity basis: that is, all state or local jurisdictions in need of that assistance should have access to such services.

A.4. In order to be effective, any federal assistance should give local jurisdictions an opportunity to receive objective, unbiased information — and allow jurisdictions to implement those options uniquely suited to their individual priorities, available resources, and political concerns.

B. Response to a Demonstrated Need

B.1. Issues related to pretrial decision-making cut across all facets of criminal justice; the traditional approach through individualized components of the system (law enforcement, courts, corrections etc.) is inadequate when pretrial issues need be addressed; it precludes the systemic overview necessary for productive results. A mechanism that provides that overview thereby needs to exist.

B.2. Individual jurisdictions, many of which are faced with severe imminent crises — overcrowded jails, expensive litigation, lack of resources, community outcry over rising crime, overcrowded court dockets — are seldom in a position to have access to information necessary for resolution of the problem(s) faced. Typically, this lack of information will result in wasteful trial and error experiments, and unnecessary delays, when the special expertise and experience from other jurisdictions would be most applicable.

B.3. Availability of such information can make the critical difference in how a jurisdiction, or a state resolves the problems it has to confront. At a minimum, it provides the jurisdiction with knowledge of options it might consider. At best, it enables the jurisdiction to avoid costly errors; develop plans in accordance with the availability of local monies (thereby ensuring a continuation of the approach — since it does not depend on federal dollars); and design its problem solving approach not only through limited personal experiences, philosophical debates and pursuit of special interests — but also on the basis of objective information which is crucial to responsible policy development.

C. FEDERAL MONIES WHICH ARE USED TO 1) SYSTEMATICALLY COLLECT AND REVIEW SUCCESSFUL PROBLEM SOLVING APPROACHES THROUGHOUT THE COUNTRY; 2) OBJECTIVELY ANALYZE AND TRANSFER SUCH INFORMATION TO LOCAL AND STATE GOVERNMENTS; AND 3) ENSURE THAT STATE AND LOCAL JURISDICTIONS ARE GIVEN THE FREEDOM TO USE THE INFORMATION AS THEY SEE FIT: REPRESENT ONE OF THE MOST COST EFFICIENT AND CRITICAL AIDS TO LOCALITIES.

AS A COROLLARY THE FUNDING OF THIS TYPE OF ASSISTANCE IS THE RESPONSIBILITY OF THE FEDERAL GOVERNMENT: THE OVERVIEW NECESSARY MUST BE FREE FROM ANY PARTICULAR VESTED INTEREST IN ORDER TO ACQUIRE CREDIBILITY; IT MUST BE NATIONAL IN SCOPE AND EQUALLY ACCESSIBLE TO ALL JURISDICTIONS; AND IT MUST BE SUSTAINED OVER TIME, WITHOUT WHICH ONGOING ACCUMULATION OF KNOWLEDGE NECESSARY FOR SUCCESSFUL PROBLEM SOLVING IS IMPOSSIBLE.

THIS APPROACH IS OF CRITICAL IMPORTANCE FOR THE PRETRIAL JUSTICE RELATED ISSUES CURRENTLY CONFRONTING THIS COUNTRY.

IV. THE PRETRIAL SERVICES RESOURCE CENTER EXPERIENCE

A. Fact Sheet

A.1. The Pretrial Services Resource Center was created by the Justice Department (through LEAA funds) in 1976. The purpose at the time was to test one model of the federal/local partnership described above; define for federal agencies the policy issues confronting the states at the pretrial stage of their criminal justice system; acquire on a cumulative basis information concerning sound approaches to pretrial decision-making; and translate and transmit that information to local jurisdictions through a series of activities which would be 1) non-duplicative of existing efforts and 2) responsive to the needs expressed by the "consumer".

A.2. The needs for such assistance, and the endorsement of the approach taken have been amply documented. Over the last four years, all levels of government and criminal justice components have begun to rely to a rapidly increasing degree on Resource Center services. An audit conducted by the Justice Department singled out the Center for excellence from among various federally funded national efforts. Among several testimonials, the Center received the Distinguished Service Award from the National Association of Counties.

A.3. With a staff of ten (six professional and four administrative staff members), the Center has become the primary resource to a large constituency which includes policymakers (state and county officials); judges, prosecutors, counsel, law enforcement and correction officials; national public interests groups and other national organizations involved in criminal justice issues; and federally, locally and privately funded efforts dealing with jail overcrowding and a reduction of pretrial crime.

In less than four years of operations, 5/ the Center has:

- Responded to over 4,000 requests for information and assistance.
- Developed thirty original publications which summarize pragmatic information on various aspects of pretrial developments, with a distribution of over 15,000 pieces of material.
- Participated in the development of seminars and directly sponsored or co-sponsored training activities (both at the national and local level) for a total of 84 events.
- Provided intensive on-site assistance in 32 jurisdictions across the United States.
- Established the first bank of information on pretrial programs (release, diversion, dispute resolution) which systematically tracks developments and results over years.
- Developed the first newsletter on pretrial issues, acknowledged as the only periodical which offers such overview — with a readership which grew in four years to over 5,000 readers.
- Been contacted for information and assistance by those state legislatures and federal congressional committees considering the development of bills dealing with pretrial crime and dispositional alternatives.
- Briefed, assisted, critiqued (and in several instances, been recruited for advisory boards of) those major national evaluations assessing various mechanisms for controlling pretrial crime.

5/ The Center became operational in the Summer of 1977.

B. Results

B.1. Cost-effectiveness claims are too often made and generally either overstated or suspect. On the other hand, savings that accrue despite the non-authoritarian approach of the Center (as its assistance impacts local action) should be considered.

It is useful, for example, to realize that — as one compares the total Resource Center annual budget ($550,000) with the most conservative estimates of daily jail expenditures per inmate ($5/day), the Center need only have assisted jurisdictions around the country in reducing by 300 the daily population in local jails to have justified its funding. Even more importantly, assistance provided by the Center ensures that these releases have occurred in accordance with concerns for community safety -- as opposed to crisis oriented responses to jail overcrowding — which often leads to the "blind" and random release of detainees.

In addition, expenditures which have been avoided to state and local governments as a result of the Center's assistance are: 1) thousands of man hours that were saved to local planners, researchers, program administrators, legislative staff — as they were seeking information on proven techniques, existing legislation in other states, data, past research efforts, etc.; 2) wasteful allocations to programs that would have been started without the benefit of knowledge of errors and mistakes experienced in other jurisdictions; and 3) duplicative efforts that were avoided (such as unnecessary funding of particular research/evaluations/programs) as the Center's network of contacts brought such information to the attention of funders (sometimes within the same state, jurisdiction, or federal agency).

B.2. More important than those costs savings, however, is the broad scope of actions with which the Center has been associated over the past four years:

- AT THE STATE LEVEL

  The primary focus has been to provide state and local governments with assistance as they 1) reviewed their bail laws and practices in an effort to combat pretrial crime; 2) took steps to eliminate practices that both endanger the public and/or are costly to the taxpayer (elimination of bail bonding for profit being an example); and 3) attempt to set up systems of pretrial release and dispositions which are cost efficient and reflective of the most up to date findings. In each instance where activities took place the Center was sought out for its expertise, knowledge, and information accumulated through its national clearinghouse function.

  Examples of successful and/or in progress efforts include:

  -- Connecticut: passage of legislation is imminent that will establish a statewide system of pretrial release. This legislation in part responds to the jail overcrowding situation of the state; stems from the efforts of a legislative commission and a gubernatorial task force, both of which relied on the Center's documents and findings throughout their mandate and requested the Center to assist in the drafting of final legislation.

  — Florida: a two pronged effort, in response to statewide litigation about jail conditions includes: work with the Governor's Task Force on Criminal Justice System Reform which is examining the possibility of a statewide system of pretrial release; work/testimony before the state legislature's insurance committee which is considering the elimination of bail bonding for profit.

- Wisconsin: documents and information were provided at the request of the state legislature to respond successfully to suits by the bailbonding industry whose practice was eliminated in the state; to follow up through well designed research on future guidelines for the establishment of a statewide system of pretrial release; and to a pretrial commission which has legislation pending.

- New York: the Center played a key role in the establishment of a coalition of various levels of governments, design of a study, and assistance to the selected contractor; the study is geared towards making recommendations to the state legislature and governor; and to review the most efficient options that will establish a statewide system for pretrial decision-making both responsive to community concerns and needs of the criminal justice system.

- California: support was given to the bar association and the state legislature as passage of ABII (enabling the practice of ten percent cash deposit for misdemeanents) was considered; and to the state in designing a follow up study on the effects of the legislation.

- Arizona: cooperation with the Pima and Maricopa county pretrial release programs has been ongoing, and information provided to court administrators as the state considers possible expansion of successful pretrial programs within the aegis of a statewide court reorganization.

- Maryland: the Center's involvement has included work with a special committee of the judiciary, the Governor's Commission on Law Enforcement and the Administration of Justice, the state bar association, two legislation committees, and with the local Baltimore program as the state examines statewide release options in response to the overcrowding of the state institutions. At this writing, information and testimony presented by the Center assisted in the continuation of the Baltimore program. One of the Center's recommendations, e.g. the creation of a gubernatorial commission similar to that established in Connecticut is under consideration.

- North Carolina: assistance and information have been provided to the Citizens Commission on Alternatives to Incarceration (including members of the bar, judiciary, prosecutors office, public defender, etc.) that will submit recommendations to the legislature in response to the overcrowding problem of institutions in the state. The Center was requested to help the commission in developing recommendations in the pretrial area.

- Texas: the possibility of expanding pretrial release systems through the state has been an on and off proposition for the last several years; in the meantime, the Center was recently able to furnish assistance to the federal ombudsman, James Oitzinger, appointed to oversee closure of the landmark Alberti case. 6/ It is expected

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6/ Alberti v. Sheriff of Harris County, 406 F. Supp. 649 (S.D. Tex. 1975). In the Alberti case, the federal court established stringent guidelines for pretrial remedies, including a mandate that a pretrial release screening agency be established.

that satisfactory closure of the court order will be of significance for the rest of the state.

— South Carolina: the Center was requested to review/formulate recommendations and assist in the implementation of a statewide diversion program which passed the legislature favorably in 1980. Since implementation of the program, the statewide coordinator has requested the Center's assistance in the formulation of guidelines and impact assessment tests to ensure that the statewide initiative will reach the purported objectives.

— Kentucky: building upon the statewide system of pretrial release implemented in 1976, the Administrative Office of the Court of the Commonwealth requested the Center's assistance in developing pilot diversion and mediation programs and in developing impact assessment tools for ascertaining the success of those programs.

— Illinois: the Study Committee on Bail Procedures of the Illinois Judicial Conference requested information and assistance, and sponsored the visit to the Center of one of its members, as it formulated the judicial guidelines and performance standards for statewide systems of pretrial release.

— Indiana: testimony was provided at the request of the legislature regarding the possibility of abolishing the ten percent cash deposit option, a measure which resulted from pressure of the Bail Bondsmen lobby. The measure was defeated.

— New Mexico: assistance was provided to local pretrial diversion programs which were successful in seeing the passage of statewide pretrial diversion enabling legislation.

— Still pending, but under consideration are efforts in Pennsylvania (diversion legislation); Massachusetts (bail reform/preventive detention legislation); Mississippi (comprehensive correctional plan, including statewide pretrial programs); Delaware (judicial review of pretrial release rules); Georgia (pending bail reform legislation that will deal with jail overcrowding, introduce a ten percent deposit option, and provide for consideration of danger and/or preventive detention). In all of these current projects, the Center is being requested by legislative committees, judicial commissions, the executive branch and other groups to furnish information on practices in other states, suggest the type of background analysis most appropriate for the state, discuss various options possible, assist in the holding of and help in establishing the agenda for meetings when appropriate.

- AT THE LOCAL LEVEL

Among the four thousand or more requests mentioned above, responses to most local inquiries have assisted in either:

1. Providing individual programs with up to date information on how to improve their current practices (such as revision of their recommendations schemes in ways that will improve their success rates both in the area of court appearance and reduction of pretrial crime). And through a combination of assistance, training and publications, in

assisting agencies to successfully deal with management, staffing and program practice issues.

2. Furnishing local governments (such as county boards) and elected officials (for example, sheriffs faced with court orders) with information on what safe options might be considered as alternatives to the building of institutions which could not be afforded by the county.

3. Providing local governments with guidance as to the do's and don'ts suggested by evaluations and recent findings as they consider the implementation of dispositional alternatives.

4. Helping program administrators, legal counsel, researchers, and city planners in locating and interpreting the most recent information required by a local situation.

- AT THE NATIONAL LEVEL

  Federal agencies and national organizations have turned to the Center and established a pattern of reliance upon a resource that can provide them with a comprehensive overview of pretrial data, thereby assisting them in: (1) setting priorities; (2) streamlining their efforts when background information is necessary; and (3) ascertaining the overall picture and concerns expressed across constituencies and state lines.

  Among several examples:

  - The National Institute of Justice has requested annually a list of areas where national research and evaluation would be key towards advancement of knowledge in pretrial decision-making. It should be noted here that:

    -- between 1967 and 1977 (ten years) a total of 13 research efforts had been funded in the pretrial area.

    -- between 1977 and 1980 (three years) a total of 26 grants were awarded, and are yielding significant results in strategies to combat pretrial crime.

    Most of the selected contractors relied heavily on Resource Center documents and expertise/networks in order to allocate their resources in the most efficient manner.

  - The National Institute of Corrections has requested the Center's input in review of its projected program plans. Of importance is the increasing effort of the Institute in the areas of jail, alternatives to jails and attention to pretrial concerns. The NIC's constituency has been regularly referred to the Center for information and assistance. NIC has also recruited the Center's staff for several of its training seminars.

  - The Law Enforcement Assistance Administration and the American Justice Institute relied heavily on the Center in the development and implementation of the highly successful Jail Overcrowding Project tested in 49 jurisdictions around the country.

Further, close interdepartmental collaboration (a somewhat unique feature within the LEAA) developed through the Center, given the Center's interaction with components of the criminal justice system. Among several examples, the Center assisted the Treatment Alternatives to Street Crime Project (Corrections division); was sought as the formula along which the intended Victim Witness Resource Center was to be developed (Special Programs division); and maintained ongoing contacts as well as developed joint projects with other LEAA sponsored agencies (such as the National Center for State Courts, Institute for Court Management, Courts Technical Assistance Unit etc.) whenever their work entailed pretrial related activities.

- Staff from the Justice Department utilized Center publications and services on those occasions when data was necessary for the formulation of departmental policies in the pretrial area (Bail Reform Act, Federal Diversion legislation, Title II of the Speedy Trial Act, Dispute Resolution Act).
- Subcommittee staff both in the Senate and the House drew heavily on Resource Center information available from the Center as various bills were introduced that affect pretrial decision-making in the federal system. The Center was requested to present testimony on most of those bills. 7/
- The three major national colleges for continuing legal education (National Judicial College in Reno, National College of District Attorneys and National College for Criminal Defense in Houston) agreed for the first time in their existence to include a pretrial curriculum in their training programs. To

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7/ U.S. Congress, Senate, Committee on the Judiciary, Subcommittee on Improvements in Judicial Machinery, Federal Criminal Diversion Act of 1977: Hearings on S. 1819, Ninety-fifth Congress, First Session, 15 July, 1977.

U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, The Speedy Trial Act of 1974, Title II: Hearings on H.R. 7084, Ninety-sixth Congress, Second Session, 11 March, 1980.

U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Pretrial Services Act of 1981: Hearings on H.R. 2841, Ninety-seventh Congress, First Session, 31 March, 1981.

date, a workshop on pretrial release decision-making is a regular feature of the judicial college summer program. The National District Attorney's College will be testing a workshop on dispositional alternatives at its upcoming Executive Program. And negotiations are under way to include a presentation on pretrial release in the curriculum of the National College for Criminal Defense.

In each instance, the workshop is initially developed and faculty recruited by the Center. Once adopted, the project is then maintained by the respective college.

Finally, the Center maintains active contacts with most national organizations (such as the American Correctional Association, National Sheriff's Association, Police Executive Research Forum, National Association of Counties, American Bar Association, National League of Cities, etc.) as a means to both, 1) maintain an overview of most individual efforts undertaken in the problem solving of pretrial issues and 2) be of assistance to help avoid duplication of efforts between those organizations.

AMERICAN BAR ASSOCIATION

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Writer's Direct Number

February 24, 1982

Honorable Arlen Specter, Chairman
Subcommittee on Juvenile Justice
Senate Judiciary Committee
Room A-523
Senate Annex
119 D Street, N.E.
Washington, DC 20510

Dear Chairman Specter:

I am writing to you on behalf of the American Bar Association to express the Association's strong support for legislation to provide a program of federal financial assistance for state and local criminal justice efforts. In recent hearings, the Subcommittee on Juvenile Justice considered this subject. These hearings focused attention on four bills -- S. 953, S. 1455, S. 1653, and S. 1997.

The American Bar Association has not specifically addressed these bills. However, we have long supported legislation to provide a program of federal financial assistance to state and local governments for criminal justice purposes, and therefore strongly encourage you to move forward to consider such legislation.

In February of 1979, the House of Delegates of the Association adopted an extensive report with numerous recommendations "...appropriate to Association positions on any legislation which might be introduced... for the purpose of restructuring and reauthorizing the Law Enforcement Assistance Administration." It was the product of a thorough analysis of the experience under the Omnibus Crime Control and Safe Streets Act of 1968 and its numerous amendments, as administered by the Law Enforcement Assistance Administration (LEAA). A copy of this report is appended to this letter for your consideration.

This report details the priorities that the American Bar Association believes should be a part of a federal criminal justice assistance program. Since the Subcommittee can glean these priorities from the attached report, I will only provide you with a brief synopsis of the salient parts of it. First, the Association concluded that high priority should be accorded a federal program for improvements in criminal justice. Second, the Association was of the view that funding should not be the subject of annual, ad hoc decisions. Many successful programs require funding which exceeds one year, and many are irreparably harmed and/or become exceedingly costly, when there are interruptions in the flow of funds. Third, the Association recommended that federal funding focus on the type of assistance which enables private non-profit organizations and community-based organizations to carry out programs of justice system improvement and thereby mobilize their leadership and expertise. It also recommends special focus on improvement and modernization of the correctional systems; development of model goals, guidelines and standards suitable for adaptation at national, state and local levels; support for local anti-crime efforts; and greater access to justice through speedy, consistent and fair modes of disposing of criminal cases and appropriate defense and prosecutive services.

Having stated the priorities that the Association believes should govern the structure of a legislative program of federal criminal justice assistance, I would like to relate to you some of the more cogent and pressing reasons that make it imperative that legislation be enacted during the 97th Congress to create such a program that would provide federal financial assistance to state and local governments for criminal justice purposes.

The concept of federal aid for our criminal justice systems is not only sound, but imperative. It is made all the more urgent with the impending April 15 demise of LEAA. Most criminal justice matters, particularly those that relate to violent crime, are primarily the province of state and local governments. However, states and localities cannot alone bear the burden of controlling and preventing crime. Despite local efforts, crime plagues the nation. It reaches across state boundaries, and even minimal crime control often requires multi-state coordination of information and apprehension systems.

Furthermore, the federal government has several unique capabilities in criminal justice matters. For example, there are improvements and reforms in criminal justice which can most appropriately be developed in federally-supported national programs made available to state and cities -- thus avoiding duplicative efforts. Likewise, the federal government is in the best position to encourage coordination among criminal justice components and to minimize the fractionalization which often defeats crime control efforts.

I hardly need to state that our citizens are extremely concerned about crime in our country and in their individual neighborhood communities. This fact has been stated and restated in the past year. Chief Justice Burger devoted his Annual Report to the American Bar Association to this subject in February 1981. The Attorney General created a Task Force to study the subject. President Reagan made a major policy speech on the subject in September 1981. Hardly a day passes that the Congressional Record does not have several passages by members of Congress on the subject; and of course the nation's newspapers are replete with accounts of daily events and editorials on the subject of crime. In the face of this evidence, it is truly ironic that the federal government would choose this time to abdicate its responsibility to the state and local governments on criminal justice assistance.

The situation becomes even more acute with the realization that agencies that contributed technical assistance to the states on criminal justice matters and complemented state enforcement efforts are also being curtailed. This is most notable in the case of the Bureau of Alcohol, Tobacco and Firearms and the

Drug Enforcement Administration. Therefore, not only is direct financial assistance diminished without the existence of a federal program, but, in addition, the diminished capacity of federal agencies that augment the enforcement efforts of the states exacerbates the situation.

You may be aware that on February 10 the House of Representatives responded to this impending crisis by overwhelmingly approving H.R. 4481, an action applauded by the American Bar Association. H.R. 4481 contains many provisions that parallel recommendations of the ABA's 1979 report on federal criminal justice assistance. The ABA urges similar action on the part of the United States Senate.

I hope this information is of assistance to you and the Subcommittee on Juvenile Justice. The Association is pleased to have had an opportunity to express its views to you. Should you need additional information, the ABA Governmental Relations Office and the Criminal Justice Section Staff Office (202/331-2260) will be pleased to provide it to you.

Sincerely,

Robert D. Evans

Robert D. Evans
Acting Director
Governmental Relations Office

RDE/cr

Encl.

cc: Members, Senate Judiciary Subcommittee
on Juvenile Justice

AMERICAN BAR ASSOCIATION

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RESOLUTIONS ADOPTED BY THE
HOUSE OF DELEGATES

February, 1979

The Sections of Criminal Justice and Individual Rights and Responsibilities, and the Judicial Administration Division recommend adoption of the following resolution and recommendations:

BE IT RESOLVED, That the American Bar Association endorse legislation to reauthorize and restructure the Law Enforcement Assistance Administration and the programs administered by it, insofar as such legislation is consistent with already established Association policies set forth in Appendix A.

BE IT FURTHER RESOLVED, That the American Bar Association endorse the following additional provisions:

1. That such legislation be accorded a high priority by the Congress so as to proceed with all reasonable dispatch to prevent any gap between the scheduled termination September 30, 1979, of this program under existing legislation; and in order to eliminate confusion and prevent irreparable harm to many current, ongoing, successful programs and initiatives at national, state, and local levels which depend upon such assistance.

2. That the reauthorization of the Law Enforcement Assistance Administration be extended from October 1, 1979, through September 30, 1984.

3. That the level of appropriated funding for the administration, technical assistance, planning, justice system improvement grants, including those for manpower training and development, community crime prevention, and juvenile justice administered by the Law Enforcement Assistance Administration be no less than $900,000,000 for each fiscal year: of which annual sum, no less than $100,000,000 shall be available for national discretionary grants, which shall include the applicable guidelines set forth hereinafter.

That any reauthorization legislation which provides for funding assistance through a combination of block grants, priority grants, and discretionary grants be drafted in sufficiently precise terms to clearly define the amounts allocated to each category: and further, that the amount allocated to and the eligibility provisions governing priority grants not substantially reduce the amounts allocated to block or discretionary grants and thereby jeopardize the purposes for which those allocations were intended or the latitude of their intended grantees in their participation in criminal justice improvement.

4. That the Congress include among its enumerated findings and objectives in support of such legislation, the following:

A. That, although crime is essentially a local problem which must be dealt with by state and local units of government, the Congress must support their efforts, including the strengthening and improvement of the criminal justice system, by providing substantial financial assistance to attract and enable private nonprofit organizations and neighborhood or community-based organizations at national, state, or local levels to plan and carry out continuing programs of justice system improvement, and thereby mobilize their leadership, expertise, interest and active support.

B. That the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require, among other things, intensification of efforts to promote greater knowledge, understanding, appreciation, and participation of citizens, neighborhood and community-based organizations, the media, and private nonprofit organizations in activities and programs to improve justice systems, and to make available adequate funding and technical assistance therefor.

C. That it is the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay; such financial assistance to expressly include the following purposes: (1) to improve and modernize the correctional system, with special emphasis on efforts to develop additional alternatives to incarceration for convicted individuals, and to stress these efforts as important funding priorities to guide those responsible for planning, goal-setting, and policy-making in these areas; (2) to continue to encourage, through adequate funding and other means, programs and projects to develop, promote, implement, and periodically reevaluate and revise models, goals, guidelines, and standards suitable for adaptation at national, state, or local jurisdictional levels, to strengthen and improve the criminal justice system; (3) to support community anti-crime efforts, especially designed to encourage and facilitate a greater involvement of citizens and community resources in helping to identify, plan, and implement programs that impact on crime and enhance opportunity for citizens to acquire a better understanding of and support for the criminal justice system; and (4) to develop new and expanded means of access to justice, including access to defense services, access to expert and other services helpful to the defense function, and access to speedy, consistent and fair modes of disposition in criminal cases.

5. That appropriate professional nonprofit organizations be represented on any national, state, regional or local boards, commissions or councils established to analyze criminal justice system problems, prepare comprehensive plans reflecting criminal justice priorities, and/or otherwise set priorities or expenditure goals in connection with the improvement of the criminal justice system, or to establish processes for determining priorities and issuing appropriate rules and regulations applicable thereto.

6. That legislation authorizing funding assistance to improve the criminal justice system clearly include provision for programs and projects to enable public or private nonprofit organizations to develop, publish, disseminate, implement, and periodically evaluate and revise models, goals, guidelines, and standards suitable for suggested adaptation at national, state, and local jurisdictional levels.

7. That legislation to provide funding assistance to improve the criminal justice system specifically authorize projects and programs designed to (1) develop, test, and encourage the implementation of alternatives to the criminal justice process, such as pretrial diversion, medical treatment of alcoholics or other drug abusers, and minor dispute resolutions: (2) to develop, test, and encourage the implementation of additional alternatives to incarceration for convicted individuals, such as suspended sentences, halfway houses, small community facilities, furloughs in the category of work, training, and education: and that both categories of such alternatives be stressed as important funding priorities to guide those responsible for planning, goal-setting, and policy-making pursuant to such legis-

lation; and (3) to develop, test and encourage the implementation of appropriate alternative means of dealing with mentally impaired individuals at various stages of the criminal justice process.

8. That funding authorized by such legislation for attacking criminal justice problems related to drug abuse include equal provisions for such problems related to alcohol abuse.

9. That funding authorized by such legislation for criminal justice improvement programs specifically include provisions to enable professional nonprofit organizations of criminal justice practitioners to plan and develop coordinated, cooperative solutions to problems which affect more than one element of the system at national, state, or local levels, whether such programs and projects are undertaken singly or by a combination of such organizations, so long as the project or program has an adequate intersystem representation in its thrust; and that such provisions specifically encourage "umbrella" groups representing the prosecution, defense, and judicial segments of the system to actively participate in programs calculated to improve and modernize all parts of the system.

10. That provision in such legislation for funding assistance to private nonprofit organizations for programs and projects contain methods for waiving grant award eligibility requirements to consult with appropriate agencies and officials of state and units of local government to be affected by such programs or projects when such would be impractical because the contemplated program or project involves studies, pilot, or demonstration efforts national in scope.

11. That funding assistance authorized by legislation for criminal justice improvement specifically include eligibility for conferences, workshops, seminars, and other appropriate mechanisms for the purpose of educating the public, including media representatives, concerning criminal justice issues and procedures, with a view to improving their knowledge, understanding, and appreciation of criminal justice problems and our constitutional guarantees: thereby promoting their active participation in and support for improving the system.

12. That any training and/or continuing legal education programs authorized for funding include eligibility for all criminal justice practitioners, rather than being limited to those in the employ of state and local government: and that special emphasis be accorded to programs designed to enhance the trial advocacy skills and overall competence of practitioners, including more adequate representation of persons accused of crime, especially the indigent.

13. That legislation establishing authority for the allocation of funds to be used in conducting local, regional or national training and/or continuing legal education programs, include specific provisions to enable such funds to be utilized for the advance planning of said programs, including the preparation of materials for use of the faculty and students, regardless of whether the subject matter concerns federal or state legislation or programs.

APPENDIX "A"

PREVIOUSLY ESTABLISHED ASSOCIATION POSITIONS

1. National Institute of Justice.

"Resolved, That the American Bar Association approves and urges the Congress to enact the 'Bill for an Act Creating a National Institute of Justice' prepared by the Commission on a National Institute of Justice as amended, however, to alter section 4(b)(3) to read:

> (3) At least four members who are lawyers and at least four members who are neither judges nor lawyers."

(Approved by the ABA House of Delegates at the August, 1974, Annual Meeting.)

2. Adequate Funding to and Insulation from Political Pressures on State Court Systems.

"BE IT RESOLVED, That Congress is urged to amend the LEAA Act so as to provide reasonable and adequate augmenting funds to state court systems under a procedure by which political pressures on state judges are not invited and by which the independence of state court systems and the separation of powers doctrine are maintained and fostered, bearing in mind that plans and projects for the improvement of state judicial systems should be developed and determined by the respective state court systems themselves: and

"BE IT FURTHER RESOLVED, That the President of the ABA or his designee is authorized to present these views before the United States Congress."

(Approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

3. Encouraging More Active Involvement of Organized Bar, Its Members and Affiliate Groups--at National, State, and Local Levels--To More Actively Participate in Criminal Justice Planning Groups and Activities; To Encourage Maximum Citizen Participation Therein; and Emphasizing Value of Standards, Codes, and Goals as Criminal Justice Planning Tools.

"The Special Committee on the Administration of Criminal Justice recommends that the American Bar Association urge its members, state and local bar associations, and affiliated groups to:

1. Become active participants in their state and local criminal justice planning groups and activities.
2. Urge consideration of the ABA Standards for Criminal Justice, the National Advisory Commission Standards and Goals, and other appropriate ABA Standards and Codes as fundamental and significant tools in developing standards and goals through comprehensive criminal justice planning.
3. Encourage maximum citizen participation in criminal justice planning consistent with the Association's traditional role of leadership, in light of LEAA's expressed policy of encouraging lay attendance at state standards and goals conferences and in state and local criminal justice planning; and to insure enlightened citizen involvement in criminal justice planning by providing such lay citizens with essential knowledge of the background and pertinent complexities regarding the ABA Standards for Criminal Justice, National Advisory Commission Standards and Goals, and other such valuable resources."

(Approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

4. Reaffirmation of Judicial Independence from Political Pressures; Guarantee of Separation of Powers Doctrine; Provision for Judicial Planning Entity; and Recommendations to Implement These Principles.

"BE IT RESOLVED, That Congress is urged to amend the LEAA Act so as to assure a reasonable and adequate portion of all LEAA funds, including state block grants and national scope discretionary funds, for the improvement of the courts of the states under a procedure by which political pressures on the state judges are not invited and by which the independence of state court systems and the separation of powers doctrine are guaranteed, requiring that plans and projects for the improvement of state judicial systems be developed and determined by a judicial planning entity, designated or created by the court of last resort of each state and by which shall be representative of all types of courts in a state judicial system; and

BE IT FURTHER RESOLVED, That judicial representation of a minimum of one-third be required on each state planning agency and the executive committees thereof, which judicial representatives shall be appointed by the court of last resort; and

BE IT FURTHER RESOLVED, That the LEAA Act be further amended as follows:

1. To encourage the development of long-range plans for court improvement, including the development of a multi-year comprehensive judicial improvement plan for each state;

2. To allow judicial planning entities to develop comprehensive plans without being compelled to adopt a particular organizational requirement as a condition precedent to obtaining funds. In addition, no state shall be penalized for the adoption of a particular mode of organization;

3. To provide for continuing Congressional oversight evaluation of the LEAA Act and operation;

4. To extend reauthorization of the LEAA program for five years but subject to Congressional change at any time;

5. To establish funding for the five-year period;

6. To repeal Section 301 (d) of the Act, limiting the compensation of personnel;

7. To define the word "court" to mean a tribunal recognized as a part of the judicial branch of the state or of its local government units; the term "court of last resort" to mean that state court having the highest and final appellate authority of the state and in states having two such courts, the term "court of last resort" shall mean the highest appellate court which also has rule-making authority and/or administrative responsibility for the state's judicial system and the institutions of the state judicial branch; and

BE IT FURTHER RESOLVED, That the ABA is authorized to assist the Conference of Chief Justices and other judicial organizations in connection with their efforts to obtain changes in the LEAA Act similar to those outlined above, and that the President of the ABA or his designee is authorized to present these views before the United States Congress and other agencies of the government."

(Approved by voice vote of ABA House of Delegates at the February, 1976, Midyear Meeting.)

Endorsement of Continuing Discretionary Grant Funding for National Education and Training Programs--Prosecutors, Defense Personnel, Judges, and Judicial Personnel.

BE IT RESOLVED, That the American Bar Association supports amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1976 and other acts amending the 1968 statute, to insure Law Enforcement Assistance Administration discretionary grant funding on a continuing basis to private nonprofit organizations for projects and programs which include national education and training programs for state and local prosecutors, defense personnel, judges and judicial personnel, and to assist in conducting local, regional or national training programs for the training of state and local criminal justice personnel.

BE IT FURTHER RESOLVED, That the specific legislative amendments supported by the ABA are as follows:

(1) Amend § 402(b)(6) by deleting the words: "at the request of a state or a unit of general local government or a combination thereof."

(2) Amend § 402(b)(6) further by deleting the word "or" at its third appearance and adding a comma, and after the next word, "regional," adding the words, "or national."

(3) Add a new § 408 as follows:

Section 408(a). The administration is authorized to support national educational and training programs for state and local court personnel, prosecutorial personnel, and defense personnel involved in the adjudication of criminal cases. The programs shall be designed to disseminate and demonstrate new legal developments by teaching, demonstration, practice and the publication of manuals and materials to improve the administration of law enforcement and criminal justice.

(b) Institutions supported under this section will assist state and local agencies in the education and training of personnel on a state and regional basis.

(c) Grants supported under this section may provide up to 100 per centum of the cost of a project but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

(1) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total operating budgets of such institutions or programs with the objective of becoming self-sustaining.

(2) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for state and local officials receiving such training.

(d) The cost of training state and local personnel under this section shall be provided out of funds appropriated to the administration for the purpose of such education and training.

(Approved by the ABA House of Delegates at the August, 1978, Annual Meeting.)

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March 10, 1982

The Honorable Arlen Specter, Chairman
Senate Judiciary Subcommittee on
Juvenile Justice
Senate Judiciary Committee
U.S. Senate
Washington, D.C. 20510

Dear Senator Specter,

It has been brought to our attention that you, as Chairman of the Senate Judiciary Subcommittee on Juvenile Justice, recently conducted a hearing on "Federal Financial Assistance to State and Local Law Enforcement". The American Federation of State, County and Municipal Employees (AFSCME), would like to take this opportunity to comment, specifically, on the phasing out of the Law Enforcement Assistance Administration (LEAA), which is scheduled for termination on April 15, 1982.

LEAA has been the major source of Federal aid to State and local law inforcement agencies since 1968. Several programs including the career criminal program (designed to assist prosecutors in focusing on street crime recidivists), PROMIS (the computer-based prosecutor management information system), and the anti-burglary and fencing "sting" operations, have been nationally recognized. Other community programs (some of which were administered by AFSCME members) such as victim-witness-juror assistance, domestic violence programs and Treatment Alternatives to Street Crime (TASC) have aided local criminal justice agencies in seeking innovative solutions to escalating problems.

AFSCME believes that the phase out of LEAA will weaken local law enforcement capability. Though remaining LEAA functions will be transferred to the Office of Justice Assistance, Research, and Statistics (OJARS), the Administration has also targeted this agency for budget cuts as part of its policy decision to reduce Federal spending and to return certain responsibilities to the States. We question whether fiscally pressed States and localities will be able to absorb the costs of these programs.

During this era when national polls indicate that crime is one of the priority concerns of most Americans, we believe that adequate Federal financial support is necessary to meet the pressures associated with this national dilemma and to build effective criminal justice systems.

AFSCME commends you for holding hearings on this issue and would appreciate your inserting our letter as part of the official record.

Sincerely,

JOSIAH H. BEEMAN
Director of Political and Legislative
Affairs

SEARCH GROUP Inc.

March 26, 1982

Honorable Arlen Specter
Chairman
Subcommittee on Juvenile Justice
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Specter:

In connection with the hearings held by the Subcommittee on Juvenile Justice of the Senate Judiciary Committee on 18 March 1982, concerning federal justice assistance programs, the Board of Directors of SEARCH has authorized me to provide to you and to your colleagues the following comments for inclusion in the record. As you know, SEARCH is a national consortium of the states with a long-standing interest in improved criminal justice information systems and statistical programs.

In this letter I will address the issue of the structure of a federal justice assistance program and also suggest means of insuring that the program is responsive to critical criminal justice information needs. There are, of course, numerous other issues related to the establishment of a new program that are important to SEARCH and to the state and local agencies we represent. I anticipate that the full SEARCH Membership of gubernatorial appointees will adopt a comprehensive set of recommendations this spring. However, in view of the Subcommittee's schedule, we wish to submit the following comments at this time.

SEARCH favors a federal justice assistance bill that establishes four independent and co-equal entities within the Department of Justice: a Bureau of Justice Statistics (BJS), a National Institute of Justice (NIJ), an Office of Juvenile Justice and Delinquency Prevention (OJJDP), and an Office of Justice Assistance (OJA). Each of these agencies should be headed by a Presidential appointee who has final authority for funding, personnel, and budget decisions within the limits set by Congress. The current umbrella agency, the Office of Justice Assistance, Research and Statistics (OJARS) should be eliminated. Instead, the Attorney General should be directed to provide necessary support staff and services, such as personnel administration, accounting, etc., to the justice assistance agencies.

The legislative histories of both the Omnibus Crime Control and Safe Streets Act of 1968 and the Justice System Improvement Act of 1979 indicate that many members of Congress believe that whoever has final authority to make decisions regarding justice assistance grants and contracts should be a Presidential appointee, in that these individuals will be exposed to pressures that require that they operate with the President's imprimateur and independently of the Attorney General.

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SEARCH favors the establishment of a non-bureaucratic mechanism to insure communication and coordination among the four agencies. In this regard, we suggest that 28 U.S.C., §506 be amended to create an eleventh Assistant Attorney General and that the legislative history indicate that this individual is to act for the Attorney General in exercising authority, policy direction, and general control over the justice assistance agencies. Further, a "Justice Assistance Council" should be created within the Department of Justice, comprised of the four directors of the assistance agencies and chaired by the newly-created Assistant Attorney General. This council should be directed to meet monthly and provide advice and direction regarding justice assistance policies and priorities.

Although every conceivable assistance structure and coordinating mechanism involves real trade-offs, SEARCH believes that the approach outlined above, or something very similar to it, has very significant advantages. This approach insures wide policymaking latitude for each of the four justice assistance agencies by making each director a presidential appointee and giving him final authority for funding, personnel, and budget decisions. Yet it provides for a coherent and comprehensive justice assistance program through the general oversight provided by the Assistant Attorney General and the coordination provided by the Justice Assistance Council. It also "legitimizes" justice assistance by clearly establishing the agencies within the Department of Justice and giving them a high level spokesperson in the Assistant Attorney General. Finally, this approach eliminates an unpopular and unnecessary bureaucracy.

SEARCH believes that the current mission of BJS to "support the development of information and statistical systems at the Federal, state, and local levels to improve the understand(ing) (of) the levels of crime,... and the operation of the criminal justice system" must be preserved and that the new justice assistance organization (OJA) should also have a clearly-defined responsibility for supporting state and local criminal justice information systems. An information support mission for BJS makes sense, because BJS cannot accomplish its overall purpose without providing assistance to state and local agencies and non-profit organizations to insure a state and local information systems infrastructure. At the same time, it is critical to have specific responsibility in OJA, because state and local agencies must have federal support for information systems development, operation, technical assistance, and training aimed exclusively at improving state and local criminal justice and not merely intended to assist BJS in the accomplishment of its federal statistical mission.

Specifically, SEARCH recommends that the charter of BJS direct it to:

- provide support for the operation of state and local criminal justice information systems which affect the collection, analysis or dissemination of justice statistics;
- provide support for the development of innovative criminal justice information systems to improve the collection, analysis and dissemination of justice statistics;
- provide technical assistance, training and information for state and local criminal justice agencies regarding the development and operation of information systems which affect justice statistics;

- insure conformance with security and privacy regulations and assist in the development of standards and guidelines for privacy, security and information policy; and

- provide assistance to encourage replication, coordination and sharing among criminal justice agencies regarding information systems, information policy and statistics.

Further, with regard to the charter of OJA, we recommend that that agency be directed to:

- provide assistance to state and local agencies for the operation of criminal justice information systems;

- provide assistance for the development of innovative information systems;

- provide technical assistance, training and information for state and local criminal justice agencies regarding the operation and development of information systems;

- provide assistance for the development of standards and guidelines regarding privacy, security and information policy, including standards for the interstate exchange of criminal history record information in conjunction with the Interstate Identification Index; and

- provide assistance to encourage replication, coordination and sharing among criminal justice agencies regarding information systems and information policy.

We believe that there are compelling reasons for including the provisions listed above in the charters of BJS and OJA. The need for the kinds of support described above for state and local criminal justice agencies is well established, as are effective mechanisms for the replication of programs initiated through federal support. State and local agencies give high priority to assistance programs that provide technical and policy-related support of a nature that cannot readily be provided by the agencies themselves, and justice information is an outstanding example of such an area of support.

Although we have dealt only with two key justice assistance issues, a number of other critical issues demand attention. One is the need to develop a mechanism to designate new priority areas and to retire priority areas which are no longer timely. We envision the Justice Assistance Council having statutory responsibility in this area.

Another, in an era of sharply diminished funding, is to identify organizations which are eligible to receive justice assistance funds. We think that serious consideration should be given to framing the justice assistance program so that priority funding will be provided to states, localities and justice organizations, federations, consortiums and associations (viz. organizations which are comprised of justice organizations, representatives or officials).

Thank you for the opportunity to furnish these comments. Should you require additional information, please feel free to call upon SEARCH.

Sincerely,

Steve Kolodney

STEVE E. KOLODNEY
Executive Director

cc: Dr. Robert J. Bradley, Missouri
Chairman, SEARCH Membership Group

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March 26, 1982

Honorable Arlen Specter, Chairman
Subcommittee on Juvenile Justice
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Justice Assistance Act
HR 4481

Dear Senator Specter:

On behalf of the governments of the City of Louisville and Jefferson County, I am writing to express support for the concept of federal assistance to state and local crime control and law enforcement efforts, but specific concerns regarding the contents of the above referenced bill.

In general our concerns fall into three areas:

(1) Is it realistic to enact a Block Grant program when the total appropriation is only $150 million?

(2) The legislation seems to virtually eliminate any possibly of jurisdictions undertaking innovative approaches to the problems of crime and law enforcement improvement. While the replication of successful program areas certainly has merit, communities such as Louisville and Jefferson County, which have not only undertaken these efforts, but have institutionalized them within the local budgetary structure, would seemingly be excluded in a time when we have tremendous need for assistance.

(3) The Hughes legislation makes almost no reference to appropriate local input into the decision making process, and offers no guarantees that local governmental concerns will even be addressed.

Finally, and particularly in light of the fact that we have been advised that there is little likelihood of any kind of funding assistance before FY84, why not utilize the Justice System Improvement Act, which is due for reauthorization in the next Congress, as the vehicle for this new initiative? It would seem to be easier to amend existing program legislation, rather than to create something entirely new, particularly in this era of scarce resources and cutback management.

As always we appreciate your serious consideration of our concerns, and commend you for the awareness and concern you have shown in beginning this important national dialogue on crime and public safety. We submit to you that crime is on the minds of the American people and will only grow as an issue of national interest in the months ahead. Local governments need help.

Sincerely,

Ernest E Allen

Ernest E. Allen
Executive Director